

2020 Kansas Pesticide Applicator Certification Plan
to
Comply with State Plan Requirements
of
The Federal Insecticide, Fungicide and Rodenticide Act, as amended

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Preamble

The Kansas Department of Agriculture (KDA), as the state lead agency (SLA), is responsible for administering the Kansas State Plan for certification of pesticide applicators. KDA is submitting this plan entitled, “2020 Kansas Pesticide Applicator Certification Plan” in response to the United States Environmental Protection Agency’s (EPA) revisions to 40 C.F.R. 171. KDA intends on implementing the additional pesticide applicator certification requirements as discussed below.

It is important to note that many of the pesticide applicator certification requirements will necessitate revisions to both the Kansas Statutes Annotated (K.S.A.s) and the administrative regulations of KDA (K.A.R.s). The Kansas Legislature and the Governor must approve revisions to statutes while revisions to administrative regulations must comply with the procedure set forth in the Kansas Rules and Regulations Filing Act, K.S.A. 77-415 *et seq.* As a result, KDA anticipates working with EPA Region 7 regarding this certification plan.

SECTION 1. CERTIFICATION PLAN ADMINISTRATION.

[§171.303(b)(6)(i), (iii), and (iv)]

A) STATE LEAD AGENCY DESIGNATION (GOVERNOR LETTER) AND POINT OF CONTACT.

[§171.303(b)(6)(i)]

[Attachment 1-A1](#) is a copy of Governor Laura Kelly's letter designating the Kansas Department of Agriculture (KDA) as the State Lead Agency (SLA). As the SLA, KDA will have the responsibility for submission, maintenance, and implementation of the state certification plan.

KDA points of contact are listed in [Attachment 1-A2](#). The Pesticide and Fertilizer Program Manager is the key point of contact.

B) OTHER AGENCIES AND CONTACTS.

[§171.303(b)(6)(i)]

K.S.A. 2-2459a and K.S.A. 2-2460a authorize KDA to enter into agreements with outside agencies and persons to assist KDA in administering the Kansas Pesticide Law, K.S.A. 2-2438a *et seq.*, and rules and regulations adopted thereunder. See [Attachment 1-B1](#).

At the time of this submission, there are no other agencies or organizations obligated to support this certification plan. KDA may approve other agencies or organizations to plan and present recertification training programs. If other agencies or organization become contractually obligated to support some aspect of this certification plan, the associated contacts will be listed in [Attachment 1-B2](#).

C) QUALIFIED PERSONNEL.

[§171.303(b)(6)(iii)]

The list of KDA qualified personnel positions is included in [Attachment 1-C](#).

D) SUFFICIENT RESOURCES.

[§171.303(b)(6)(iv)]

KDA gives assurance that sufficient funding will be provided to properly carry out this certification plan with the caveat that EPA provides adequate supplemental funding via the pesticide performance partnership grant. This assurance includes personnel and funding from fee fund sources and the supplemental funding from the EPA pesticide performance partnership grant.

SECTION 2. LEGAL AUTHORITIES.

[§171.303(b)(6)(ii) and §171.303(b)(7)(i)-(vii)]

A) WRITTEN OPINION.

[§171.303(b)(6)(ii)]

[Attachment 2-A](#) is a written opinion letter from Kenneth B. Titus, Chief Counsel of the Kansas Department of Agriculture stating that KDA has the legal authority to carry out this certification plan.

B) LAWS AND REGULATIONS.

[§171.303(b)(7)]

[Attachment 2-B1](#) is a complete copy of the Kansas Pesticide Law, K.S.A. 2-2438a *et seq.*, and associated regulations.

[Attachment 2-B2](#) is a complete copy of the Kansas Agriculture Chemical Act of 1947, K.S.A. 2-2201 *et seq.*, and associated regulations.

[Attachment 2-B3](#) is a complete copy of the Kansas Agricultural and Specialty Chemical Remediation Act, K.S.A. 2-3701 *et seq.*, (Kansas Chemigation Safety Law).

C) PROVISIONS FOR GROUNDS FOR DENYING, SUSPENDING OR REVOKING A CERTIFICATION.

[§171.303(b)(7)(i)]

[Attachment 2-C](#) is the citation addressing the grounds for denying, suspending or revoking a certification.

D) PROVISIONS FOR REVIEWING, SUSPENDING AND REVOKING A CERTIFICATION.

[§171.303(b)(7)(ii)]

[Attachment 2-D](#) is the citation addressing the provisions for reviewing, suspending or revoking a certification.

E) PROVISIONS FOR ASSESSING CIVIL AND CRIMINAL PENALTIES.

[§171.303(b)(7)(iii)]

[Attachment 2-E](#) is the citation for assessing civil and criminal penalties.

F) PROVISIONS FOR RIGHT OF ENTRY FOR INSPECTIONS.

[§171.303(b)(7)(iv)]

[Attachment 2-F](#) is the citation providing KDA's authority for the right of entry.

G) PROVISIONS FOR MAKING IT UNLAWFUL TO APPLY RUPs UNLESS CERTIFIED.

[§171.303(b)(7)(v)]

[Attachment 2-G](#) is the citation making it unlawful to apply RUPs unless certified.

H) PROVISIONS FOR COMMERCIAL APPLICATOR RECORDKEEPING.

[§171.303(b)(7)(vi)]

[Attachment 2-H](#) is the citation requiring commercial applicator recordkeeping.

I) PROVISIONS FOR RUP DEALER RECORDKEEPING.

[§171.303(b)(7)(vii)]

[Attachment 2-I](#) is the citation requiring RUP dealer recordkeeping.

SECTION 3. COMMERCIAL APPLICATOR CERTIFICATION CATEGORIES.

[§171.101, §171.103, §171.303(a)(2), §171.303(a)(3), §171.303(b)(2) and §171.303(b)(2)(ii)(A)]

[Attachment 3](#) is KDA's current citation of the commercial applicator certification categories. KDA plans to adopt the federal commercial applicator certification categories and standards.

SECTION 4. PRIVATE APPLICATOR CERTIFICATION CATEGORIES

[§171.105, §171.303(a)(2), §171.303(a)(3), §171.303(b)(3) and §171.303(b)(3)(i), and §171.303(b)(3)(ii)]

[Attachment 4](#) is KDA's plan to implement private applicator certification categories. KDA plans to adopt the federal private applicator certification categories and standards.

SECTION 5. LIMITED USE CERTIFICATION CATEGORIES.

[§171.303(a)(4), §171.303(b)(2) and §171.303(b)(2)(ii)(A)]

[Attachment 5](#) addresses limited use certification in Kansas. Currently KDA does not have limited use certification categories and does not intend to implement any limited use certification categories.

SECTION 6. STANDARDS FOR CERTIFICATION OF COMMERCIAL APPLICATORS.

[§171.101, §171.103, §171.303(a)(1), §171.303(a)(3), §171.303(b)(2) and §171.303(b)(2)(ii)(A)-(C)]

[Attachment 6](#) addresses the KDA standards for commercial applicator certification.

SECTION 7. STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS.

[§171.105, §171.303(a)(1), §171.303(a)(3), §171.303(b)(3) and §171.303(b)(3)(ii)-(iv)]

[Attachment 7](#) addresses the KDA standards for private applicator certification.

SECTION 8. RECERTIFICATION STANDARDS.

[§171.107, §171.303(a)(6) and §171.107.303(b)(4)]

[Attachment 8](#) addresses KDA recertification standards.

SECTION 9. STANDARDS FOR THE DIRECT SUPERVISION OF NONCERTIFIED APPLICATORS.

[§171.201, §171.303(a)(7) and §171.303(b)(5)]

[Attachment 9](#) addresses direct supervision of noncertified applicators.

SECTION 10. CREDENTIALS.

[§171.303(a)(8) and 303(a)(4)(vii)]

[Attachment 10](#) includes an example of the credential issued to commercial applicators and private applicators.

SECTION 11. RECIPROCITY.

[§171.303(a)(9)]

[Attachment 11](#) addresses KDA applicator certification reciprocity.

SECTION 12. REPORTS TO EPA.

[§171.303(c)]

[Attachment 12](#) addresses KDA reports to EPA.

SECTION 13. IMPLEMENTATION TIMEFRAME.

[§171.303(b)(6)(v)]

[Attachment 13](#) addresses KDA's estimated implementation timeframe.

Attachment 1-A1: Governor Laura Kelly's Letter

February 13, 2020

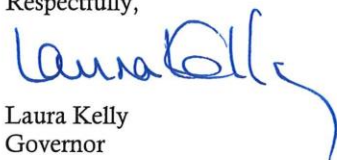
Jim Gulliford
U.S. EPA-Region 7
11201 Renner Blvd.
Lenexa, KS 66219

Dear Mr. Gulliford:

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §136 *et seq.*, provides for the certification of applicators of pesticides by either the Administrator of the United States Environmental Protection Agency or by any state that desires to certify applicators of pesticides. Pursuant to 7 U.S.C. 136i, the Governor of each State must designate a state agency as the agency responsible for administering the State Plan for certification of pesticide applicators.

Please accept this letter as my designation of the Kansas Department of Agriculture as the official state agency in Kansas that is responsible for administering the State Plan for certification of pesticide applicators.

Respectfully,



Laura Kelly
Governor

cc: Michael M. Beam, Secretary of the Kansas Department of Agriculture

Attachment 1-A2: SLA Points of Contact

Kansas Department of Agriculture Points of Contact

Mike Beam, Secretary Kansas Department of Agriculture 1320 Research Park Drive Manhattan, Kansas 66502 AgSecretary@ks.gov (785) 564-6700	Kenneth B. Titus, Chief Counsel Kansas Department of Agriculture 1320 Research Park Drive Manhattan, Kansas 66502 kenneth.titus@ks.gov (785) 564-6715
George Blush, Director Agribusiness Services Division Kansas Department of Agriculture 1320 Research Park Drive Manhattan, Kansas 66502 george.blush@ks.gov (785) 564-6761	Kellen Liebsch, Chief Fiscal Officer Kansas Department of Agriculture 1320 Research Park Drive Manhattan, Kansas 66502 kellen.liebsch@ks.gov (785) 564-6721
Gary Meyer, Manager – (Primary POC) Pesticide and Fertilizer Program Kansas Department of Agriculture 1320 Research Park Drive Manhattan, Kansas 66502 gary.meyer@ks.gov (785) 564-6688	Sarah DeDonder, Manager Agriculture Laboratory Kansas Department of Agriculture [Street address to be determined] Manhattan, KS 66502 sarah.dedonder@ks.gov [Telephone number to be determined]

Attachment 1-B1: Authority to Work with Outside Agencies, Organizations, or People

K.S.A. 2-2459a. Courses of instruction. The secretary may, in cooperation with Kansas state university, any other educational institutions of this state or of any other state, state and federal agencies, or any other person, publish information and conduct short courses of instruction in the safe use and application of pesticides.

History: L. 1977, ch. 3, § 12; L. 2010, ch. 50, § 1; July 1.

K.S.A. 2-2460a. Cooperation with other agencies; educational institutions or persons. The secretary may cooperate or enter into formal agreements with any other agency or educational institution of this state or its subdivisions, with any agency or educational institution of any other state, with the federal government, or with any other person for the purpose of carrying out the provisions of this act or securing uniformity of regulations.

History: L. 1977, ch. 3, § 13; L. 2010, ch. 50, § 2; July 1.

Attachment 1-B2: List of Outside Agencies, Organizations, or People

At the time this certification plan is submitted, there are no other agencies or organizations obligated to support this certification plan. If that should change, KDA will amend this attachment to include the necessary information.

Attachment 1-C: QUALIFIED PERSONNEL.

Kansas Department of Agriculture Positions

POSITION TITLE	JOB FUNCTION	NUMBER OF FTE
Program Manager	Administer all aspects of program	1
Assistant Program Manager	Assist with program management; chief enforcement	1
Field Staff Supervisor	Supervise assigned staff; first line case review	2
Field Staff	Compliance inspections; misuse investigations; outreach; proctor exams; monitor training	11
Office Staff	Outreach; product registration; certification & training; case review; AIMS management; admin and logistics support of field staff	5.5

Attachment 2-A: WRITTEN OPINION.

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Manhattan, KS 66502
785-564-6700
www.agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

February 24, 2020

Jim Gulliford
U.S. EPA-Region 7
11201 Renner Blvd.
Lenexa, KS 66219

RE: Legal Opinion regarding the State of Kansas Certification Plan

Mr. Jim Gulliford,

It is my legal opinion that the Pesticide and Fertilizer Program of the Kansas Department of Agriculture has the authority to administer the State of Kansas Certification Plan prepared for the United States Environmental Protection Agency in accordance with 40 C.F.R. § 171.303.

Pursuant to K.S.A. 2-2439, the Secretary of the Kansas Department of Agriculture is authorized and empowered to administer and enforce the provisions of the Kansas Pesticide Law, K.S.A. 2-2438a *et seq.*, amendments thereto, and rules and regulations adopted thereunder. The Kansas Pesticide Law provides broad authority for the Secretary of the Kansas Department of Agriculture, including, but not limited to: establishing standards for the issuance and renewal of certification for pesticide applicators; establishing standards for the issuance and renewal of licenses and registration for pesticide businesses and dealers; suspending or revoking the certification, license or registration of any pesticide applicator, pesticide business or dealer for violations of the Kansas Pesticide Law and the rules and regulations adopted thereunder; registering pesticides for use in Kansas; placing limitations, conditions and restrictions on the use of pesticides in Kansas; and enforcing violations of the Kansas Pesticide Law and the rules and regulations adopted thereunder.

In the event you require additional information or need further clarification, please contact myself or Gary Meyer, Program Manager of the Pesticide and Fertilizer Program.

Sincerely,

Kenneth B. Titus
Chief Counsel

cc: Gary D. Meyer, Program Manager of the Pesticide and Fertilizer Program

Attachment 2-B1: Kansas Pesticide Law, K.S.A. 2-2438a *et seq.*, and Associated Regulations

The following copy of selected statutes and regulations is being made available by the Kansas Department of Agriculture for the convenience of the public and is meant to be used only as a reference. While the Kansas Department of Agriculture has made every effort to accurately reproduce these statutes and regulations, they are not the official statutes and regulations of the State. The Kansas Statutes Annotated (K.S.A.), published by the Revisor of Kansas Statutes, and the Kansas Administrative Regulations (K.A.R.), published by the Secretary of State should be consulted for the text of the official statutes and administrative regulations of the State.

Kansas Statutes Annotated Kansas Pesticide Law

K.S.A. 2-2438a. Definitions. As used in this act, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this section:

(a) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish and shellfish.

(b) "Department" means the Kansas department of agriculture of the state of Kansas.

(c) "Certified applicator" means any individual who is certified under this act to use or supervise the use of any restricted use pesticide which is classified for restricted use by a certified applicator.

(1) "Certified commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided in paragraph (2) of this subsection (c).

(2) "Certified private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity,

(A) on property owned or rented by such person or such person's employer or

(B) if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

(d) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

(e) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(f) "Equipment" means any ground, water or aerial apparatus, used to apply any pesticide but shall not include any pressurized hand size household apparatus used to apply any pesticide or any equipment, apparatus or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.

(g) "Fungus" means any nonchlorophyll-bearing thallophyte, including, but not limited to, rust, smut, mildew, mold, yeast and bacteria, except those on or in man or other animals and those on or in processed food, beverages or pharmaceuticals.

(h) "General use pesticide" shall mean and include all pesticides which have not been designated, by rule or regulation of the secretary, as being restricted use pesticides.

(i) "Insect" means any small invertebrate animal having the body segmented, belonging to the class insecta and other classes of arthropods, including, but not limited to, beetles, bugs, bees, flies, spiders, mites, ticks and centipedes.

(j) "Registered pest control technician" means an uncertified commercial applicator who applies pesticides for wood destroying pest control, for structural pest control, for ornamental pest control, for turf pest control, for interior landscape pest control or for any combination of these types of pest control, and who has received verifiable training.

(k) "Nematode" means any unsegmented roundworms of the class nematoda, with elongated, fusiform, or saclike bodies covered with cuticle, inhabiting soil, water, plants or plant parts. Such roundworms may also be referred to as nemas or eelworms.

(l) "Person" means any individual, partnership, association of persons, corporation or governmental agency.

(m) "Pest" means, but is not limited to, any insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in man or other animals, or which the secretary may declare to be a pest.

(n) "Pesticide" means, but is not limited to,

(1) any substance or mixture of substances used to prevent, destroy, control, repel, attract or mitigate any pest; and

(2) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant.

(o) "Pesticide business" means any individual, partnership, association of persons or corporation which applies pesticides to the property of another for compensation.

(p) "Pesticide business licensee" shall mean an individual, business, association of persons or corporation who is licensed or would be required to be licensed under the provisions of K.S.A. 2-2440, and amendments thereto.

(q) "Pesticide dealer" means any person who sells a pesticide to another person for application.

(r) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants but shall not include substances insofar as they are used as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments. The term "plant regulator" shall not include any such nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and not for pest destruction if such mixtures or soil amendments, in the undiluted packaged concentration are nontoxic and nonpoisonous.

(s) "Restricted use pesticide" shall mean and include all pesticide uses designated as such by rules and regulations of the secretary.

(t) "Secretary" means the secretary of agriculture.

(u) "Under the supervision of" means, unless otherwise provided by the labeling of the pesticide product, acting under the instructions and control of another person who is available if and when needed, even though such other person is not physically present at the time and place the act is done.

(v) "Weed" means any plant or part thereof which grows where not wanted.

(w) "Use of any pesticide in a manner inconsistent with its label or labeling" means to use any pesticide in a manner not permitted by the label or labeling.

(x) "Pest control" means the destruction, prevention, repulsion or mitigation of a population, infection or infestation of a pest.

(y) "Pesticide management area" means a site or area designated by the secretary pursuant to K.S.A. 2-2472, and amendments thereto, within which a pesticide management plan is deemed necessary for the protection of the public health, safety, welfare or natural resources of the state.

(z) "Natural resources" means and includes soils, water and any form of terrestrial or aquatic or animal life.

(aa) "Pesticide rinsate" means the water contaminated with pesticides from the cleaning of the inside of pesticide containers or pesticide tanks.

History: L. 1977, ch. 3, § 1; L. 1978, ch. 6, § 1; L. 1984, ch. 1, § 3; L. 1985, ch. 12, § 1; L. 1987, ch. 12, § 1; L. 1988, ch. 7, § 1; L. 1989, ch. 6, § 1; L. 2004, ch. 101, § 45; L. 2009, ch. 128, § 10; July 1.

K.S.A. 2-2439. Administration of act; rules and regulations. The secretary is hereby authorized and empowered to administer and enforce the provisions of this act. The secretary is authorized to promulgate rules and regulations designating certain pesticides as restricted use pesticides.

The secretary shall have the authority, by rules and regulations, to make any additional changes in the classification of restricted use pesticides.

History: L. 1976, ch. 1, § 2; L. 2004, ch. 101, § 46; July 1.

K.S.A. 2-2440. Unlawful acts; pesticide business license, requirements and fees, exemptions; government agency registration, exemptions; license and registration renewals. (a) Subject to the provisions of subsection (d), it is unlawful for any pesticide business which has not been issued a pesticide business license to:

(1) Advertise, offer for sale, sell or perform any service for the control of a pest on the property of another or apply a pesticide to the property of another within this state; or

(2) perform any service for the control of a pest or apply any pesticide on or at the premises of another person under any commission, division of receipts or subcontracting arrangement with a licensed pesticide business. Nothing in this subsection shall be construed to require the licensing of any person applying restricted use pesticides to the property of another as a certified private applicator or under the supervision of a certified private applicator.

(b) Application for a pesticide business license or renewal shall be made on a form obtained from the secretary and shall be accompanied by an application fee per category in which the licensee applies, and an additional fee for each uncertified individual employed by the applicant to apply pesticides. The application fee per category shall be \$140 per category in which the licensee applies, except that on and after July 1, 2023, the application fee per category shall be \$112 per category in which the licensee applies. An additional fee of \$15 shall be paid for each uncertified individual employed by the applicant to apply pesticides, except that on and after July 1, 2023, an additional fee of \$10 shall be paid for each uncertified individual employed by the applicant to apply pesticides. The application fee per category and the additional fee for each uncertified employee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee under this subsection. Any uncertified individual employed for a period of more than 10 days in a 30-day period or for five consecutive days by a licensee to apply pesticides subsequent to such application shall

be reported to the secretary within 30 days of such employee's hiring and the fee shall be paid at that time. Each application shall also include the following:

(1) The business name of the person applying for such license or renewal;

(2) if the applicant is an individual, receiver, trustee, representative, agent, firm, partnership, association, corporation or other organized group of persons, whether or not incorporated, the full name of each owner of the firm or partnership or the names of the officers of the association, corporation or group;

(3) the principal business address of the applicant in the state and elsewhere; and

(4) any other information the secretary, by rules and regulations, deems necessary for the administration of this act.

(c) The secretary may issue a pesticide business license to apply pesticides in categories for which an applicant has applied if the applicant files the bond, insurance, letter of credit or proof of an escrow account as required under K.S.A. 2-2448, and amendments thereto, satisfies the requirements of subsection (b), and pays the required fees. Such license shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(d) The following persons shall be exempted from the licensing requirements of this act:

(1) State or federal personnel using pesticides or pest control services while engaged in pesticide use research;

(2) veterinarians or physicians using pesticides as a part of their professional services; and

(3) any person or such person's employee who applies pesticides on or at premises owned, leased or operated by such person.

(e) Subject to the provisions of subsection (d), it is unlawful for any governmental agency which has not been issued a government agency registration to apply pesticides within this state. Application for government agency registration shall be made on a form obtained from the secretary and shall be accompanied by a fee fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$50, except that on and after July 1, 2023, such fee shall not exceed \$35. The governmental agency registration fee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee therefor under this subsection. No fee shall be required of any township located within a county which has previously applied for and received government agency registration. Each application for registration shall contain information including, but not limited to:

(1) The name of the government agency;

(2) the mailing address of the applicant;

(3) the name and mailing address of the person who heads such agency and who is authorized to receive correspondence and legal papers. Such person shall be: (A) The mayor or city manager for municipalities; (B) the chairperson of the board of county commissioners for counties; (C) the township trustee for townships; or (D) any person designated by any other governmental agency; and

(4) any other information the secretary, by rules and regulations, deems necessary for the administration of this act.

(f) If the secretary finds the application to be sufficient, the secretary shall issue a government agency registration. The government agency is not required to furnish a surety bond under this act. Such government agency registration shall expire at the end of the calendar year for which it is issued unless

it has been revoked or suspended prior thereto. If a registration is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(g) A pesticide business license or government agency registration may be renewed by meeting the same requirements as for a new license or registration. Neither the pesticide business license nor the government agency registration shall be transferable, except that, in the event of the disability, incapacity or death of the owner, manager or legal agent of a pesticide business licensee, a permit may be issued by the secretary to permit the operation of such business until the expiration period of the license in effect at the time of such disability, incapacity or death if the applicant therefor can show that the policies and services of such business will continue substantially as before, with due regard to protection of the public and the environment.

(h) No pesticide business license may be issued to any person until such person is or has in such person's employ one or more individuals who are certified commercial applicators in each of the categories for which the license application is made.

History: L. 1976, ch. 1, § 3; L. 1977, ch. 3, § 2; L. 1982, ch. 4, § 8; L. 1982, ch. 7, § 1; L. 1985, ch. 13, § 1; L. 1987, ch. 12, § 9; L. 1989, ch. 6, § 12; L. 1994, ch. 199, § 1; L. 1994, ch. 336, § 4; L. 2002, ch. 181, § 3; L. 2004, ch. 85, § 3; L. 2009, ch. 128, § 11; L. 2014, ch. 133, § 1; L. 2017, ch. 86, § 3; July 1.

K.S.A. 2-2440a. Pesticide business licensee requirements. (a) A pesticide business licensee applying pesticides for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests shall ensure that registered pest control technicians who handle, mix or apply pesticides have been trained as provided in this act. The pesticide business licensee shall notify the secretary within 30 days following the date of employment of the employment of a registered pest control technician or a person to be trained as a registered pest control technician. The pesticide business licensee shall ensure that all persons employed by the pesticide business who apply pesticides and who are not registered pest control technicians meet the requirements of this act within 90 days after they are employed. This requirement shall not apply to certified commercial applicators employed by the pesticide business licensee.

(b) This section shall be part of and supplemental to the Kansas pesticide law.

History: L. 1987, ch. 12, § 3; L. 1988, ch. 7, § 2; L. 2009, ch. 128, § 12; July 1.

K.S.A. 2-2440b. Unlawful acts; pest control technician registration, requirements and fees. (a) It shall be unlawful for any pesticide business licensee to apply pesticides for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests unless the applicator of the pesticide is a certified commercial applicator or is a registered pest control technician, except that an uncertified commercial applicator may apply pesticides when either a certified applicator or registered pest control technician is physically present.

(b) Any such employee applying for a pest control technician registration shall file an application on a form prescribed by the secretary. Application for such registration shall be accompanied by an application fee established by rules and regulations adopted by the secretary, except that such fee shall not exceed \$40, except that on and after July 1, 2023, such fee shall not exceed \$25, and shall be reduced, but not below zero, by an amount equal to the additional fee paid under K.S.A. 2-2440(b), and amendments thereto, for such uncertified individual.

(c) If the secretary finds the applicant qualified to be a registered pest control technician after meeting the training requirements determined by the secretary in rules and regulations, the secretary shall issue a pest control technician registration which will expire at the end of the calendar year.

(d) This section shall be part of and supplemental to the Kansas pesticide law.

History: L. 1987, ch. 12, § 2; L. 1988, ch. 7, § 3; L. 2002, ch. 181, § 4; L. 2004, ch. 85, § 4; L. 2009, ch. 128, § 13; L. 2014, ch. 133, § 2; L. 2017, ch. 86, § 4; July 1.

K.S.A. 2-2440c. Registered pest control technician; training; approval of training materials; maintenance of records verifying training.

(a) Each registered pest control technician shall have received training, to the extent prescribed by the secretary by rules and regulations in each of the subjects enumerated in K.S.A. 2-2443a, and amendments thereto.

(b) Within 90 days after the effective date of this act, each pesticide business licensee who applies pesticides or causes pesticides to be applied for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests shall submit its training materials to the secretary for approval. After initial approval, each such pesticide business licensee shall resubmit its training materials for approval every five years. Training materials submitted to the secretary shall be approved or disapproved within 60 days of the date of receipt by the secretary. If the training materials submitted are disapproved, the secretary shall provide the pesticide business licensee within 60 days of receipt of the training materials a written explanation of the reasons for such disapproval.

(c) Each pesticide business licensee who applies pesticides or causes pesticides to be applied for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests shall maintain records to verify that each registered pest control technician employed by such pesticide business licensee has been properly trained. These records shall contain the name of each person who takes the training to become a registered pest control technician, the date or dates of such training, the date the training was completed and any other information required by the secretary. These records shall be maintained for a period of three years after the training has been given. These records shall be made available to the secretary or the secretary's authorized designee upon request.

(d) This section shall be part of and supplemental to the Kansas pesticide law.

History: L. 1987, ch. 12, § 6; L. 1988, ch. 7, § 4; L. 2009, ch. 128, § 14; July 1.

K.S.A. 2-2440d. Same; fees. (a) The fee for registration of each registered pest control technician shall be paid by the pesticide business licensee employing the registered pest control technician. The registration shall inure to the benefit of the pesticide business licensee and shall not be transferable.

(b) This section shall take effect and be in force from and after January 1, 1988.

History: L. 1987, ch. 12, § 7; July 1.

K.S.A. 2-2440e. Pesticide business licensee; civil penalties; appeal procedure; deposit of moneys. (a) Any pesticide business licensee or pesticide dealer who violates any of the provisions of K.S.A. 2-2453 or 2-2454 and amendments thereto, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the secretary in an amount not less than \$100 nor more than \$5,000 for each violation and, in the case of a continuing violation, every day such violation continues may be deemed a separate violation.

(b) A duly authorized agent of the secretary, upon a finding that a pesticide business licensee or pesticide dealer or any employee or agent thereof or any person or entity required to be licensed as a

pesticide business licensee or registered as a pesticide dealer who violates any of the provisions of K.S.A. 2-2453 and 2-2454, and amendments thereto, may impose a civil penalty as provided in this section upon such licensee or dealer.

(c) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the secretary to the pesticide business licensee or pesticide dealer who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such pesticide business licensee or pesticide dealer to appeal to the secretary. Any such licensee or dealer, within 20 days after notification, may make written request to the secretary for a hearing or informal conference hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

(d) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(e) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer; upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(f) This section shall be a part of and supplemental to the Kansas pesticide law.

History: L. 1988, ch. 7, § 5; L. 2001, ch. 5, § 16; L. 2009, ch. 128, § 15; L. 2010, ch. 17, § 12; July 1.

K.S.A. 2-2441a. Commercial applicator's certificate; exemptions; application and fees; expiration. No individual except the following shall use any restricted use pesticide without a commercial applicator's certificate issued by the secretary: (a) Individuals applying restricted use pesticides under a private applicator certification;

(b) employees of a pesticide business licensee using only nonaerial methods of applying pesticides and who work only under the supervision of a certified commercial applicator. The secretary may authorize any certified aerial applicator to apply restricted use pesticides in a category or subcategory other than one in which such applicator is certified under the supervision of an applicator certified in the category or subcategory in which the pesticide is being applied during an emergency situation declared by the secretary with the consent of the governor;

(c) veterinarians or physicians using pesticides as a part of their professional services;

(d) qualified laboratory personnel employed by recognized pesticide research facilities, using pesticides or pest control services while engaged in pesticide use research; and

(e) federal employees using pesticides as a part of their employment by a federal agency which has its own certification program which is the full equivalent of the requirements of this state.

Such a commercial applicator's certificate shall be required in addition to any other license or permit required by law for the operation or use of pesticide application equipment. Any person applying for such commercial applicator's certificate shall file an application on a form prescribed by the secretary. If the secretary finds the applicant qualified to apply pesticides in the categories or subcategories the applicant has applied for after examinations on the same basis as provided for in K.S.A. 2-2443a and amendments thereto, the secretary shall issue a commercial applicator's certificate limited to the categories or subcategories for which the applicant is qualified, which certificate shall expire at the end of the second calendar year after the year of issue. If a certificate is not issued as applied for, the secretary shall inform the applicant in writing of the reasons for such denial.

History: L. 1977, ch. 3, § 3; L. 1982, ch. 4, § 9; L. 2002, ch. 181, § 5; L. 2004, ch. 85, § 5; L. 2009, ch. 128, § 16; July 1.

K.S.A. 2-2442. Same; temporary permit; examination. (a) Any person required to obtain a commercial applicator's certification may apply for a temporary permit. The temporary permit may be used in lieu of the regular certification, described in K.S.A. 1976 Supp. 2-2441, until the person is scheduled for regular examination. In no event will the period of time for use of a temporary permit exceed sixty (60) days and a second temporary permit for the same category cannot be issued to the same person during the calendar year within which such temporary permit was issued.

(b) Temporary permits may be issued to persons who have:

- (1) Completed application on a form prescribed by the secretary;
- (2) paid the fees prescribed in K.S.A. 1976 Supp. 2-2441; and
- (3) passed an emergency examination provided to each county extension office by the secretary.

(c) The county extension agent shall make available emergency examinations and give and grade such examinations. The county clerk will be responsible for issuing the temporary permits, collecting the fees and forwarding the fees with necessary informational records to the secretary.

History: L. 1976, ch. 1, § 5; Oct. 21, 1977.

K.S.A. 2-2443a. Same; examination; reciprocity; fees; subjects included in examination. An applicant for a commercial applicator's certificate shall show upon written examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides in the categories or subcategories for which the applicant has applied. A commercial applicator who holds a current certificate to apply pesticides commercially in any other state or political subdivision of the United States may be exempted from examination for certification in this state upon approval of the secretary and payment of a \$75 fee per category, unless a fee not to exceed \$75 is established in rules and regulations adopted by the secretary. Applicants shall submit with each application a fee per examination taken, including each category, subcategory and general core examination. The examination fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$45 per examination, except that on and after July 1, 2023, such fee shall not exceed \$35 per examination. Applicants who fail to pass the examination may reapply and take another examination upon paying another examination fee, which fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$45 per examination, except that on and after July 1, 2023, such fee shall not exceed \$35 per examination. The general core examination shall include, but is not limited to, the following:

(a) The proper use of the equipment.

(b) The hazards that may be involved in applying the pesticides, including:

(1) The effect of drift of the pesticides on adjacent and nearby lands and other non-target organisms;

(2) the proper meteorological conditions for the application of pesticides and the precautions to be taken with such application;

(3) the effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;

(4) the effect of the application of pesticides to wildlife in the area, including aquatic life;

(5) the identity and classification of pesticides used and the effects of their application in particular circumstances; and

(6) the likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects and vegetation.

(c) Calculating the concentration of pesticides to be used.

(d) Identification of common pests to be controlled and damages caused by such pests.

(e) Protective clothing and respiratory equipment for handling and application of pesticides.

(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.

(g) Applicable state and federal pesticide laws and regulations.

(h) Any other subject which the secretary deems necessary.

History: L. 1977, ch. 3, § 4; L. 1982, ch. 4, § 10; L. 2002, ch. 181, § 6; L. 2004, ch. 85, § 6; L. 2009, ch. 128, § 17; L. 2014, ch. 133, § 3; L. 2017, ch. 86, § 5; July 1.

K.S.A. 2-2444a. Categories of qualification for certification and licensing; subdivision by secretary. (a)

The categories of qualification for certification and licensing shall include:

(1) Agricultural pest control;

(2) forest pest control;

(3) ornamental and turf pest control;

(4) seed treatment;

(5) aquatic pest control;

(6) right-of-way pest control;

(7) industrial, institutional, structural and health related pest control;

(8) public health pest control;

(9) regulatory pest control; and

(10) demonstration and research pest control.

(b) The secretary shall have authority to subdivide any category of qualification for certification or licensing enumerated in subsection (a) of this section in order to account for the special needs or business practices of this state. The secretary may also adopt any additional categories he or she deems necessary for any reason. Any such changes in the categories enumerated in subsection (a) shall be adopted by rules and regulations of the secretary.

History: L. 1977, ch. 3, § 5; L. 2004, ch. 101, § 47; July 1.

K.S.A. 2-2445a. Certified private applicator's certificate; qualifications; examination; fee; educational materials; reciprocity of certificates. In lieu of obtaining a commercial applicator's certificate under the provisions of K.S.A. 2-2441a, and amendments thereto, a private applicator's certificate may be applied for by and issued to individuals using restricted use pesticides for the purpose of producing any agricultural commodity on property owned or rented by the individual or such individual's employer, or on the property of another for no compensation other than the trading of personal services between producers. Such certificates shall expire on the anniversary of the individual's date of birth occurring in the fifth calendar year following the year of issue. No certification shall be required hereunder for individuals operating under the supervision of a certified private applicator.

Certified private applicator certificates may be issued to individuals who have paid: (a) A fee fixed by rules and regulations adopted by the secretary, except that on and after July 1, 2023, such fee shall not exceed \$10; and (b) who have acquired practical knowledge of pest problems, proper storage, use, handling and disposal of pesticides and pesticide containers, pertinent information found on the

pesticide labels, pesticide use safety and environmental considerations, either through Kansas state university extension service educational training or through individual study of educational materials available at county extension offices or the secretary. The certified private applicator certificate fee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee therefor under this section. Individuals shall indicate adequate knowledge of the subjects enumerated herein by passing an open-book examination approved by the secretary.

Educational materials and examination blanks shall be made available at county extension offices and at places where extension educational training is conducted. The examinations shall be scored by members of the extension or secretary's staff. If an individual passes the examination by equaling or exceeding a standard authorized by the secretary, a certified private applicator's certificate shall be issued to such individual. Such staff member shall send a copy of the certificate issued, together with the fee, to the secretary.

A certified applicator who holds a current certificate to apply pesticides as a certified private applicator in any other state or political subdivision of the United States may be exempted from examination for private applicator certification in this state upon payment of proper fees and approval by the secretary.

History: L. 1977, ch. 3, § 6; L. 1978, ch. 6, § 2; L. 1981, ch. 10, § 1; L. 1982, ch. 4, § 11; L. 1987, ch. 13, § 1; L. 2002, ch. 181, § 7; L. 2004, ch. 85, § 7; L. 2009, ch. 128, § 18; L. 2014, ch. 133, § 4; L. 2017, ch. 86, § 6; July 1.

K.S.A. 2-2446. Renewal of certification or registration. (a) A commercial applicator's certification may be renewed for a succeeding three-year period by paying the fees prescribed in K.S.A. 2-2441a, and amendments thereto, passing the examinations provided for in K.S.A. 2-2443a, and amendments thereto, and completing the renewal application form prescribed by the secretary.

(b) In lieu of such examinations, the secretary may accept attendance and satisfactory completion of a training course approved by the secretary. If certification is renewed by training, the renewal application form shall be accompanied by a recertification-by-training fee of \$50 per category unless a fee not to exceed \$50 is established in rules and regulations adopted by the secretary.

(c) A certified commercial applicator may recertify by training following the expiration of the certification period, if:

- (1) All training requirements were completed during the certification period; and
- (2) the renewal application form and all appropriate fees were received by the secretary on or before 30 days following expiration of the certification period.

(d) A private applicator's certification may be renewed for a succeeding five-year period by paying the fee prescribed in K.S.A. 2-2445a, and amendments thereto, passing the examination provided for in K.S.A. 2-2445a, and amendments thereto, and completing the renewal application form prescribed by the secretary. Such examination shall be offered by the secretary by mail. County extension agricultural meetings shall include pertinent pesticide information for private applicators.

(e) A pest control technician's registration may be renewed for a succeeding one-year period by paying the fees prescribed in K.S.A. 2-2440b, and amendments thereto, completing the renewal form prescribed by the secretary, and completing any requirements concerning retraining prescribed by rules and regulations.

History: L. 1976, ch. 1, § 9; L. 1981, ch. 10, § 2; L. 1987, ch. 12, § 4; L. 2009, ch. 128, § 19; July 1.

K.S.A. 2-2447. Nonresident applicant for license; consent to action for damages; service of process.

Any nonresident applying for a license under this act to operate in the state of Kansas shall file a written irrevocable consent that any action for damages resulting from the application or misapplication of pesticides and any action to enforce the provisions of any contract providing for the application of pesticides, may be commenced against said nonresident in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff may reside; that service of process upon the secretary of the state of Kansas may be had and that such service of process shall be valid and binding to the same extent as if personal service had been had and obtained upon said nonresident in this state.

History: L. 1976, ch. 1, § 10; Oct. 21, 1977.

K.S.A. 2-2448. Surety bond, liability insurance, letter of credit or escrow account required for pesticide business license.

(a) Except as provided by subsection (b), the secretary shall not issue a pesticide business license until the applicant has furnished proof of financial responsibility by one of the following:

(1) A surety bond in an amount not less than \$6,000 per year. The bond shall be executed by a corporate surety and shall state the effective date and the expiration date. The surety bond shall be executed on a form approved by the secretary. The applicant shall be named as the principal in the bond. Such bond shall be to the state of Kansas and shall be conditioned upon compliance by the principal and by the principal's officers, agents, representatives and employees, with the provisions of this act and acts amendatory thereof and supplemental thereto. It shall be unlawful for any licensed person to use the words "bond" or "bonded" in advertising or in publicizing such person's operations in connection with the application of pesticides unless such bond is a performance bond and that fact and the amount of such bond are specified.

(2) A certificate of liability insurance. The certificate of liability insurance shall be executed by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall state the effective date and the expiration date of the policy. Such liability insurance shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. The liability insurance policy shall provide:

(A) Coverage for not less than \$25,000 for bodily injury liability for each occurrence; and

(B) coverage for not less than \$5,000 for property damage liability for each occurrence. In addition to the coverage specified above, if the applicant for a pesticide business license is an aerial applicator, the liability insurance policy shall provide coverage for any pesticide such applicant will be applying and for comprehensive chemical coverage. Pesticide application equipment, if required to be registered under K.S.A. 2-2456, and amendments thereto, shall be covered. The insurer shall notify the secretary, in writing, of any expiration, reduction or cancellation of liability insurance, furnished as a prerequisite of licensure, not later than 10 days before the expiration, reduction or cancellation takes effect. Upon expiration, reduction or cancellation of the liability insurance, the secretary shall suspend such pesticide applicator's business license until the insurance requirement is met by the licensee for the current license period. The certificate shall be executed on a form approved by the secretary.

(3) A \$6,000 letter of credit from a Kansas financial institution, as defined in K.S.A. 16-117, and amendments thereto. The letter of credit shall be executed on a form approved by the secretary. The

letter of credit shall state the effective date and the expiration date and shall be valid through the term of the applicant's business license. Upon cancellation of the letter of credit, the secretary shall suspend such pesticide applicator's business license until the letter of credit requirement is met by the licensee for the current license period.

(4) Maintaining a minimum balance of \$6,000 in an escrow account in a Kansas financial institution as defined in K.S.A. 16-117, and amendments thereto. The escrow account shall maintain the minimum balance through the term of the applicant's business license. The secretary shall be notified in writing by the financial institution within 10 days if the amount in the escrow account falls below the \$6,000 minimum balance. Upon notification, the secretary shall suspend such pesticide applicator's business license until the escrow account minimum balance is at \$6,000.

(b) Before June 1, 1994, the financial responsibility and proof of financial responsibility required pursuant to this section prior to March 1, 1994, shall continue to apply to any pesticide business holding a valid pesticide business license on February 28, 1994, and no different or additional financial responsibility or proof of financial responsibility shall be required of such business. On or before June 1, 1994, each pesticide business licensed before March 1, 1994, shall furnish to the secretary proof of financial responsibility conforming to the requirements of this section as amended by this act.

(c) The requirements of this section as amended by this act shall apply to any applicant applying for an original pesticide business license on or after March 1, 1994, and no different or additional financial responsibility or proof of financial responsibility shall be required of such applicant.

History: L. 1976, ch. 1, § 11; L. 1982, ch. 8, § 1; L. 1989, ch. 6, § 17; L. 1994, ch. 199, § 2; April 21.

K.S.A. 2-2449. Grounds for denial, suspension, revocation or modification of license. The secretary may deny, suspend, revoke or modify the provisions of any license, registration, permit or certificate issued under this act, if the secretary finds, after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act, that the applicant, licensee, registrant, permit holder or certificate holder has:

(a) Been convicted of or pleaded guilty to a violation of this act, or been convicted of or pleaded guilty to a felony under the laws of this state or of the United States, if the secretary determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(b) failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder, or any of the laws or rules and regulations of any other state or the United States relating to licensing or other provisions concerning pesticide use or control; or

(c) had any license, certificate, registration or permit issued to the person under this act, or the pest control or pesticide use laws of any other state revoked.

History: L. 1976, ch. 1, § 12; L. 1977, ch. 3, § 7; L. 1984, ch. 313, § 44; L. 2009, ch. 128, § 20; L. 2010, ch. 60, § 3; July 1.

K.S.A. 2-2450. Suspension of license for failure to have surety bond, liability insurance, letter of credit or escrow account. (a) If the surety bond, certificate of liability insurance, letter of credit or proof of an escrow account previously furnished by the licensee expires or is canceled or terminated, the secretary shall suspend without a hearing the pesticide business license until an acceptable substitute surety bond, letter of credit, proof of an escrow account or certificate establishing acceptable replacement of liability insurance is supplied.

(b) If the pesticide business fails to employ one or more commercial applicators certified in each category and subcategory in which the pesticide business makes commercial pesticide applications, the secretary may suspend, without a hearing, the pesticide business license for that category until the pesticide business employs a commercial applicator with the appropriate certification.

History: L. 1976, ch. 1, § 13; L. 1985, ch. 13, § 2; L. 1994, ch. 199, § 3; L. 2009, ch. 128, § 21; L. 2011, ch. 16, § 1; July 1.

K.S.A. 2-2452. Appeal of denial, suspension or revocation. The licensee or certificate holder may appeal from the decision and order, in accordance with the provisions of the Kansas judicial review act.

History: L. 1976, ch. 1, § 15; L. 1977, ch. 3, § 9; L. 1979, ch. 161, § 1; L. 1984, ch. 313, § 46; L. 2010, ch. 17, § 13; July 1.

K.S.A. 2-2453. Unlawful acts. It shall be unlawful for any person to: (a) Except as provided for in K.S.A. 2-2470, use pesticides in a manner which is inconsistent with such pesticide's label or labeling; or

(b) discard or store any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or waterways and wildlife therein; or

(c) fail to comply with any other provision of this act or any rule or regulation adopted pursuant thereto.

History: L. 1976, ch. 1, § 16; L. 1977, ch. 3, § 10; L. 1989, ch. 6, § 13; July 1.

K.S.A. 2-2454. Unlawful acts. It shall be unlawful for any person required to be licensed, registered or certified under the provisions of this act to: (a) Make false or fraudulent claims through any media, misrepresenting the effect of material or methods to be utilized

(b) except as provided for in K.S.A. 2-2470, and amendments thereto, make a pesticide recommendation or use not in accordance with the directions for use shown on the label registered under the Kansas agricultural chemical act or by the environmental protection agency, or both;

(c) knowingly use ineffective or improper methods or materials;

(d) knowingly operate faulty, unsafe or, if registration is required, unregistered equipment, or operate any equipment in a negligent manner;

(e) refuse or neglect to keep and maintain records required by this act, or refuse or neglect to make records available when and as required by this act;

(f) make false or fraudulent records, invoices or reports;

(g) use fraud or misrepresentation in making an application for or renewal of a license, registration, permit or certificate;

(h) refuse or neglect to comply with any limitations or restrictions on or in a duly issued license, registration, permit or certificate;

(i) aid, abet or conspire with any person to evade any of the provisions of this act, or allow a license, registration, permit or certificate to be used by an unlicensed or uncertified person;

(j) impersonate any state, county or city inspector or official, as acting in their official capacity;

(k) make any misrepresentation or defraud any member of the public;

(l) permit a pesticide business license or contract forms to be used by any unlicensed person who is not a salaried or commissioned employee or representative of such licensee, for use in applying pesticides under any commission or subcontracting arrangement;

(m) use any method or material without regard to public health, safety or welfare;

(n) engage in or advertise to provide pest control services without benefit of proper licenses, certification or registration;

(o) use, store, dispose of any pesticide material, pesticide rinsate or container without regard to public health or environmental damage;

(p) fail to maintain and provide a copy of pesticide product labels and material safety data sheets to customers when so requested;

(q) use any pesticide in a manner inconsistent with limitations imposed by the secretary pursuant to K.S.A. 2-2471.

(r) distribute, sell, make available for use or use any restricted use pesticide other than by a certified applicator or under the supervision of a certified applicator;

(s) distribute, sell or offer for sale any pesticide unless it is in the pesticide registrant's or the pesticide manufacturer's unbroken immediate container and there is affixed to such container the registrant's label which is complete and legible and which can be read through any package wrappers;

(t) distribute, sell or offer for sale any pesticide product with altered, defaced or detached labeling; or

(u) distribute, sell or offer for sale any pesticide product with pesticide or pesticide residue on the container or packaging.

History: L. 1976, ch. 1, § 17; L. 1989, ch. 6, § 14; L. 2009, ch. 128, § 22; July 1.

K.S.A. 2-2455. Written statement for services to customer; records, maintenance and availability to secretary. (a) Each pesticide business shall present to each customer for whom such business performs a pest control service involving the application of pesticides a statement of services or contract setting forth the following information: (1) Business name and address of the pesticide business licensee;

(2) name and address of the customer;

(3) pest or pests to be controlled, which may be stated in general terms;

(4) pesticide to be used including the quantity applied and total area to which the pesticide is applied;

(5) the concentration or rate of application, when applicable;

(6) the date and location of the application of the pesticide;

(7) the expiration date of all guarantees, if any be given;

(8) the signature of the individual who performed the pest control service or the application of pesticides;

(9) the signature of the individual who supervised the performance of the pest control service or the application of pesticides, when applicable;

(10) the wind direction and velocity, when applicable; and

(11) that the application was less than label rate, when applicable.

(b) Whenever the service involving the application of pesticides is performed for the purpose of controlling termites, powder-post beetles, wood borers, wood-rot fungus or any other wood destroying pest, the following information shall be included in addition to that required under subsection (a): (1) The conditions under which retreatments, if any are to be made;

(2) the approximate date or dates of inspections, for any to be made after the original application of the pesticide; and

(3) a diagram of the structure to be treated, showing the location of visible evidence of active and inactive infestations by any wood destroying pest or pests for which the treatment is proposed; where a partial or spot treatment is to be made, this diagram shall also show the area or areas of the structure which are to be treated.

(c) (1) The required statement of services or contract for services involving the application of pesticides may be incorporated into any business form used by the pesticide business licensee.

(2) The statement of services or contract shall be presented to the customer in paper format, unless the customer agrees to receive all or part of the statement of services or contract in electronic format.

(3) The pesticide business licensee shall present the statement of services or contract to the customer within 30 days of when the pest control services were provided and prior to the due date for payment of the services, if the services are not a prepaid agreement. Upon the customer's request, the statement of services or contract shall be presented to the customer no later than the close of business on the business day following the request.

(4) Upon request of the secretary or the secretary's designee, a duplicate of the statement of services or contract provided to the customer shall be made available within two business days to the secretary or the secretary's designee.

(5) Any pesticide business licensee using aerial methods of applying pesticides may present such information at any time prior to the time payment is accepted.

(6) The statement of services or contract may be signed using the legible printed names of the individuals who performed and, when applicable, supervised the performance of the pest control service or the application of pesticide.

(7) The pesticide business licensee shall retain a copy of each statement of services or contract in such licensee's files for a period of three years from the expiration date of any statement of services or contract.

(8) Each pesticide business licensee shall faithfully carry out the stipulations set forth in any statement of services or contract prepared by such licensee or any of its representatives.

(d) Each pesticide business licensee shall make available to the secretary upon request, a copy of any statement of services or contract, records of all pesticide applications during any specified period, records of all employees who performed any service involving, or in conjunction with, the application of pesticides and any other requested information pertinent to the administration of this act or any rule or regulation adopted hereunder by the secretary.

(e) The secretary shall require certified commercial applicators who are not employed by or otherwise acting for a business licensee to maintain records concerning applications of restricted use pesticides. The secretary shall specify by rules and regulations the information to be contained in such records, which shall be maintained for three years from the date of application of the pesticide concerned. Such records shall be open to inspection by the secretary or the secretary's designee during normal business hours, and copies shall be furnished to the secretary or the secretary's designee upon request.

History: L. 1976, ch. 1, § 18; L. 1977, ch. 3, § 11; L. 1989, ch. 6, § 15; L. 1995, ch. 37, § 1; L. 2009, ch. 128, § 23; L. 2018, ch. 20, § 2; July 1.

K.S.A. 2-2456. Registration and marking of equipment. (a) The secretary may, at his or her discretion, require the registration of any equipment used in the commercial application of pesticides, and any equipment required to be so registered may be marked for identification in a manner prescribed by the secretary. Unannounced inspections may be made without charge to determine if the equipment is properly calibrated and maintained in conformance with laws and rules and regulations, and the secretary may require repairs or other changes before its further use for pesticide application. A list of requirements that equipment shall meet may be adopted by rules and regulations.

(b) The secretary may, in his or her discretion, require that any car, truck or other vehicle used for the purpose of applying pesticides or transporting pesticide application equipment or personnel to an application site be marked for identification purposes in a location and manner as the secretary shall

prescribe: Provided, that such application is for the purpose of controlling pests in the categories of either

- (1) ornamental and turf pest control, or
- (2) industrial, institutional, structural and health related pest control.

History: L. 1976, ch. 1, § 19; Oct. 21, 1977.

K.S.A. 2-2457a. Statement of claim of damage from pesticide application; filing with secretary; forms; effect of failure to file. (a) Because pesticides have short residual life, a person damaged from pesticide application shall file with [the] secretary, within 60 days after the date the damage was discovered, a written statement, on a form prescribed by the secretary, claiming that the person has been damaged. The statement shall contain, but shall not be limited to, the name of the person responsible for the application of the pesticide, if known, the name of the owner or lessee of the land on which the pesticide was being applied at the time the alleged damage occurred, if known, and the name of the owner or lessee of the land on which it is alleged that the damage occurred.

(b) The secretary shall prepare a form to be furnished to persons for use in such cases and such forms shall contain such other information as the secretary may deem proper. The secretary shall send a duplicate copy of this statement to the person responsible for the application of the pesticide, if known, and to the owner or lessee of the land to which the pesticide was being applied at the time the alleged damage occurred, if known, or other person who may be charged with the responsibility for the alleged damage.

(c) The failure to file a report pursuant to this section:

- (1) Shall create a rebuttable presumption that the alleged damage did not result from the pesticide application;
- (2) shall not preclude the maintenance of any criminal or civil action; and
- (3) shall not constitute a violation of the Kansas pesticide law.

(d) This section shall be part of and supplemental to the Kansas pesticide law.

History: L. 1986, ch. 8, § 1; April 17.

K.S.A. 2-2459a. Courses of instruction. The secretary may, in cooperation with Kansas state university, any other educational institutions of this state or of any other state, state and federal agencies, or any other person, publish information and conduct short courses of instruction in the safe use and application of pesticides.

History: L. 1977, ch. 3, § 12; L. 2010, ch. 50, § 1; July 1.

K.S.A. 2-2460a. Cooperation with other agencies; educational institutions or persons. The secretary may cooperate or enter into formal agreements with any other agency or educational institution of this state or its subdivisions, with any agency or educational institution of any other state, with the federal government, or with any other person for the purpose of carrying out the provisions of this act or securing uniformity of regulations.

History: L. 1977, ch. 3, § 13; L. 2010, ch. 50, § 2; July 1.

K.S.A. 2-2461. Penalties; injunction. (a) Any person other than a certified private applicator violating or failing to comply with any provision of this act or any authorized rule or regulation of the secretary shall be deemed guilty of a class A misdemeanor. Each separate violation shall constitute a separate offense.

(b) Any certified private applicator who violates any of the provisions of this act or any authorized rules or regulations of the secretary shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$100 and not more than \$500. Each day of operation after notice shall constitute a separate offense.

(c) The district courts of Kansas shall have jurisdiction to restrain violations of this act by injunction without the institution of criminal proceedings. Said injunction shall be issued without bond.

History: L. 1976, ch. 1, § 24; L. 1977, ch. 3, § 14; L. 2004, ch. 101, § 48; July 1.

K.S.A. 2-2462. Enforcement. For the purposes of carrying out the provisions of this act, the secretary or his or her agent or the county or district attorney or their agents may enter any premises at any reasonable time, in order:

(1) To have access for the purpose of inspecting any equipment subject to this act and such premises on which such equipment is kept or stored; or

(2) to inspect or sample lands and crops actually or reported to be exposed to pesticides; or

(3) to inspect storage or disposal areas; or

(4) to inspect or investigate complaints of injury to humans, crops or land; or

(5) to sample pesticides being applied or to be applied; or

(6) to observe the use and application of a pesticide.

Should the secretary, his or her agent or the county or district attorney or their agents be denied access to any land where such access was sought for the purposes authorized, the secretary or the county or district attorney may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

The enforcement of the criminal provisions of this act shall be the duty of, and shall be implemented by, the county or district attorneys of the various counties or districts. In the event a county or district attorney refuses to act, the attorney general shall so act. The secretary is charged with the duty of enforcing all other provisions of this act.

History: L. 1976, ch. 1, § 25; Oct. 21, 1977.

K.S.A. 2-2463. Subpoenas. The secretary may issue subpoenas to compel the attendance of witnesses and/or production of books, documents and records anywhere in the state in any hearing affecting the authority or privilege granted by a license, registration, certificate or permit issued under the provisions of this act.

History: L. 1976, ch. 1, § 26; Oct. 21, 1977.

K.S.A. 2-2464a. Disposition of moneys; pesticide use fee fund. The secretary shall remit all moneys received by or for the secretary under this act and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pesticide use fee fund. All expenditures from the pesticide use fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by such secretary.

History: L. 1977, ch. 3, § 15; L. 1994, ch. 336, § 5; L. 2001, ch. 5, § 17; L. 2004, ch. 101, § 49; July 1.

K.S.A. 2-2467a. Rules and regulations. The secretary is hereby authorized to promulgate and adopt rules and regulations for the administration of this act and concerning the following matters which include but are not limited to:

- (a) The designation of certain pesticides as restricted use pesticides as provided in K.S.A. 2-2439, and amendments thereto;
- (b) the designation of categories for the issuance of pesticide business licenses as provided in K.S.A. 2-2444a, and amendments thereto;
- (c) the designation of categories for the certification of applicators as provided in K.S.A. 2-2444a, and amendments thereto;
- (d) the designation of training requirements for those persons applying for a pest control technician's registration as provided in K.S.A. 2-2440b, and amendments thereto;
- (e) the registration and identification of equipment used in the commercial application of pesticides as provided in K.S.A. 2-2456, and amendments thereto;
- (f) the storing and discarding of pesticides, pesticide materials, pesticide rinsates and pesticide containers;
- (g) proper health and safety precautions;
- (h) proof of financial responsibility including acceptable surety bond, liability insurance coverage, letter of credit or proof of an escrow account;
- (i) furnishing of reports and information necessary for the secretary to carry out the provisions of this act; and
- (j) imposing limitations on the use of any pesticide in a manner inconsistent with its label or labeling, pursuant to K.S.A. 2-2471, and amendments thereto; and
- (k) any procedural or other matters related to the designation of pesticide management areas.

History: L. 1977, ch. 3, § 16; L. 1987, ch. 12, § 5; L. 1989, ch. 6, § 16; L. 1994, ch. 199, § 5; April 21.

K.S.A. 2-2468. Citation of act. This shall be known and may be cited as the "Kansas pesticide law."

History: L. 1976, ch. 1, § 31; Oct 21, 1977.

K.S.A. 2-2469. Pesticide dealers; registration; exemptions; denial, suspension or revocation, hearing;

fees. (a) Each person who is a pesticide dealer shall register with the secretary. Registration shall be required for each business location distributing pesticides and shall be on a form provided by the secretary. Each registration shall expire on June 30 following issuance unless such registration is renewed annually. A registration fee of \$20 shall accompany the application.

(b) The provisions of this section shall not apply to a licensed pesticide business which sells pesticides only as an integral part of such business' pesticide application service when the pesticides are dispensed only through equipment used for this pesticide application, nor to the sale of general use pesticides purchased for household use only, nor to any federal, state, county or municipal agency which provides pesticides only for its own programs nor to any individual who is the final purchaser of a pesticide for application to property or property rights owned, leased, or otherwise acquired by such person.

(c) Each registered pesticide dealer is responsible for the acts of each individual employed by such dealer in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides made by such employees. The dealer's registration shall be subject to denial, suspension, or revocation

after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act for any violation of this act whether committed by the dealer or by the dealer's officers, agents or employees.

(d) All fees received under this section shall be remitted to the state treasurer in accordance with K.S.A. 2-2464a and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and 75% of such amount shall be credited to the pesticide use fee fund and 25% of each such amount shall be credited to the publications fee fund of the Kansas department of agriculture.

History: L. 1985, ch. 12, § 2; L. 1988, ch. 356, § 32; L. 1994, ch. 336, § 6; L. 2004, ch. 101, § 50; L. 2009, ch. 128, § 24; L. 2010, ch. 60, § 4; July 1.

K.S.A. 2-2470. Allowable pesticide applications by the applicator. Unless limited by K.S.A. 2-2471, and amendments thereto, or prohibited by the pesticide product label, the applicator may:

(1) Apply a pesticide at any dosage, concentration or frequency less than that specified on the label or labeling; or

(2) apply a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling, and if the secretary has determined that the use of the pesticide against other pests would not cause an unreasonable effect on the environment.

History: L. 1989, ch. 6, § 2; L. 2009, ch. 128, § 25; July 1.

K.S.A. 2-2471. Rule and regulation authority to the secretary to limit pesticide use. Notwithstanding the provisions of K.S.A. 2-2470, and amendments thereto, whenever the secretary deems it necessary to preserve the health, safety and welfare or the natural resources of the state, the secretary is hereby authorized to promulgate rules and regulations imposing limitations on the use of any pesticide.

History: L. 1989, ch. 6, § 3; L. 2009, ch. 128, § 26; July 1.

K.S.A. 2-2472. Pesticide management areas; development by the secretary. (a) The secretary of the Kansas department of agriculture is hereby authorized and may develop pesticide management areas after receiving notification by the administrator of the United States environmental protection agency or by the secretary of the Kansas department of health and environment, that a pesticide poses a serious threat to the public health, safety and welfare or the natural resources of this state.

(b) The secretary upon the secretary's own investigation may initiate such proceedings whenever the secretary has reason to believe that a pesticide poses a serious threat to the public health, safety and welfare or the natural resources of this state.

History: L. 1989, ch. 6, § 4; L. 2004, ch. 101, § 51; July 1.

K.S.A. 2-2473. Same; factors to examine in area development; pesticide management area technical advisory committee; composition and duties thereof. (a) The pesticide management areas shall be developed by examination of the following factors:

- (1) Precipitation;
- (2) topography;
- (3) soil type;
- (4) depth to the watertable; and
- (5) other factors as the secretary deems relevant.

The areas shall be designated as permitted, modified or prohibited for the use of certain types of pesticides as determined by the pesticide management plan for the management area. The order of the secretary designating such pesticide management area shall define specifically the boundaries of the pesticide management area and shall indicate specifically the pesticide management plan for the area. Pesticide management plans may include provisions for the handling or release of pesticides, including but not limited to the application, mixing, loading, storage, disposal or transportation and guidelines for the best management practices.

(b) When considering whether to establish such pesticide management areas, the secretary shall consult with a pesticide management area technical advisory committee composed of a representative or representatives of each of the following:

(1) Kansas department of health and environment appointed by the secretary of health and environment;

(2) Kansas department of wildlife, parks and tourism appointed by the secretary of wildlife, parks and tourism;

(3) Kansas state university appointed by the president of Kansas state university;

(4) Kansas water authority appointed by the chairperson of the Kansas water authority;

(5) conservation commission appointed by the chairperson of the state conservation commission;

(6) Kansas geological survey appointed by the state geologist; and

(7) other persons the secretary determines to have beneficial information to the establishment of such areas as appointed by the secretary. This technical advisory committee shall assist the secretary in the development of the proposed boundaries of the pesticide management area and the proposed plan for the pesticide management area.

History: L. 1989, ch. 6, § 5; July 1; L. 2012, ch. 47, sec. 3; July 1.

K.S.A. 2-2474. Same; public hearing concerning designation; notice. Notwithstanding the provisions of K.S.A. 2-2475, before designating any pesticide management area, the secretary shall hold a public hearing at which any interested party may appear and be heard in person or by attorney. Notice of the hearing shall be given by a publication in the Kansas register and by three publications in a newspaper or newspapers of general circulation within the area in question within the 30-day period prior to the date set for the hearing. The notice shall state the proposed boundaries of the pesticide management area and a summary of the proposed pesticide management plan to be applied within the proposed pesticide management area.

History: L. 1989, ch. 6, § 6; July 1.

K.S.A. 2-2475. Temporary pesticide management areas; secretary authorization. Where, in the opinion of the secretary, a pesticide poses an imminent threat to the public health, safety and welfare or the natural resources of this state the secretary is authorized to establish temporary pesticide management areas for a period not to exceed 90 days. The order of designation of a temporary pesticide management area shall be in full force and effect upon entry in the records of the secretary and the secretary shall take all steps reasonably necessary to disseminate the information of the order to all interested parties.

History: L. 1989, ch. 6, § 7; July 1.

K.S.A. 2-2476. Pesticide management area; order of designation. Notwithstanding the provisions of K.S.A. 2-2475, the order of designation of a pesticide management area shall be in full force and effect 60 days from the date of publication in the Kansas register unless and until its operation shall be stayed by an appeal therefrom in accordance with the provisions of the act for judicial review and civil enforcement of agency action. The secretary upon request shall deliver a copy of such order to any interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county which lies within such designated pesticide management area.

History: L. 1989, ch. 6, § 8; July 1.

K.S.A. 2-2477. Same; secretary authorization to revoke, modify or expand. The secretary is authorized to revoke, modify or expand the boundaries or plan of a pesticide management area after publication and public hearings, pursuant to K.S.A. 2-2474, on the proposed change.

History: L. 1989, ch. 6, § 9; July 1.

K.S.A. 2-2478. Same; use of pesticides in area; civil penalty; appeal procedure. (a) Following the establishment of any pesticide management area, all persons shall use pesticides consistently with the provisions of the pesticide management plan for the pesticide management area. Any person who applies pesticides in violation of a plan of an established pesticide management area may incur a civil penalty in the amount fixed by rules and regulations of the secretary in an amount not less than \$100 nor more than \$5,000 for each violation.

(b) No civil penalty shall be imposed pursuant to this section except upon the written order of the secretary or the secretary's duly authorized agent to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to the secretary. Any such person, within 20 days after notification, may make written request to the secretary for a hearing or informal conference hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

(c) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(d) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

History: L. 1989, ch. 6, § 10; L. 2001, ch. 5, § 18; July 1.

K.S.A. 2-2479. Same; statewide education program on areas and plans. The secretary shall initiate a statewide program to educate the public on pesticide management areas and pesticide management plans. The secretary may use other state agencies as well as the Kansas cooperative extension service to disseminate this information to the public.

History: L. 1989, ch. 6, § 11; July 1.

K.S.A. 2-2480. Uniformity of pesticide law; state has exclusive jurisdiction. (a) On and after the effective date of this act, the provisions of the Kansas pesticide law, and any rules and regulations promulgated thereunder relating to pesticide sale or use, including, but not limited to, application of

pesticides, training and certification of pesticide applicators, storage of pesticides, transportation of pesticides and disposal of pesticides within the state of Kansas shall be applicable and uniform throughout this state and in all cities, counties and political subdivisions therein. No local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas pesticide law unless expressly authorized by law to do so. Any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas pesticide law is hereby declared to be invalid and of no effect. Any amendment to the Kansas pesticide law or any amendment of the rules and regulations promulgated thereunder, shall supersede and preempt the conflicting, additional or supplemental provisions of any law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state.

(b) Nothing in this section shall be construed to preempt or otherwise limit the authority of any city, county or political subdivision therein to adopt and enforce zoning regulations, fire codes or hazardous waste disposal restrictions.

(c) This act is supplemental to and shall become a part of the Kansas pesticide law.

History: L. 1992, ch. 195, § 4; April 30.

K.S.A. 2-2481. Format of required documentation. Documentation required under the provisions of the Kansas pesticide law, or any rule or regulation adopted under it, may be created and maintained in paper or electronic format, or a combination of both. Documents shall be provided upon request to the secretary or the secretary's designee in the format selected by the secretary or the secretary's designee. Any required document created or maintained in an electronic format shall be capable of being reproduced in a readable paper format.

History: L. 2018, ch. 20, § 1; July 1.

K.S.A. 74-568. State board of agriculture and secretary of the state board of agriculture abolished; transfer of power and duties to the department of agriculture and secretary of agriculture. (a) The state board of agriculture created by K.S.A. 74-503, and amendments thereto, and the office of the secretary of the state board of agriculture created by K.S.A. 74-503, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state board of agriculture and the existing secretary of the state board of agriculture are hereby transferred to and conferred and imposed upon, the department of agriculture and the secretary of agriculture established by this act.

(c) Except as otherwise provided by this act, the department of agriculture and the secretary of agriculture established by this act shall be the successor in every way to the powers, duties and functions of the state board of agriculture and the secretary of agriculture in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture or the secretary of agriculture established by this act shall be deemed to have the same force and effect as if performed by the state board of agriculture or the secretary of the state board of agriculture, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state board of agriculture, or words of the like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(e) Except as otherwise provided by this act, whenever the secretary of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(f) All rules and regulations of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture by this act until revised amended or nullified pursuant to law.

(g) All rules and regulations of the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the chief engineer of the division of water resources of the department of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(h) All orders and directives of the state board of agriculture or the secretary of the state board of agriculture in existence in the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture established by this act, until revised, amended, revoked or nullified pursuant to law.

(i) On the effective date of this act, the secretary of agriculture shall succeed to whatever right, title or interest the state board of agriculture has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the state board of agriculture or the secretary of the state board of agriculture to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

(j) The secretary of agriculture established by this act shall be continuations of the state board of agriculture and the secretary of the state board of agriculture.

History: L. 1995, ch. 236, § 9; May 4.

Kansas Administrative Regulations

Article 13. PESTICIDES

K.A.R. 4-13-1. Definitions. For the purposes of this article, the following terms shall have the meanings specified in this regulation: (a) "Alternative treatment" means any method of pest control service performed for the purpose of controlling termites, other than those specified in subsections (b), (c), (d), (e), (g), and (i). This term shall include nonchemical methods of control and above-ground pesticide application.

(b) "Bait treatments" and "baiting system" mean the installation, servicing, and monitoring of termite bait stations and termite monitoring stations for the purpose of controlling termites within a structure. The placement of monitoring stations without a written agreement to periodically inspect the monitoring stations and replace monitoring stakes or other materials with a pesticide shall not constitute a bait treatment or baiting system.

(c)(1) "Complete soil treatment" and "complete treatment" mean a pesticide application to soil for the control of termites and shall include both of the following:

(A) Applying pesticide at the concentration, rate, and dosage required by the product labeling in such a manner that a chemical barrier is formed at all sites of potential termite entry into the structure from the soil, including the interior and exterior foundation walls and cross walls; the area around any support piers, expansion joints, and cracks in concrete slabs; any void areas in masonry elements; and any other structural components that extend below soil grade; and

(B) removing wood scrap, paper scrap, and all other cellulose-containing debris from any accessible areas of crawl spaces under buildings being treated.

(2) Applications to wooden construction elements, the use of baits, and the use of alternative methods of control shall not be represented as complete treatments.

(d) "Limited soil treatment" and "limited treatment" mean a pesticide application that is intended to provide protection from termite infestation to the entire structure, but is not designed to provide a continuous barrier of pesticide to the soil, including treating only the exterior perimeter of a slab structure.

(e) "Partial soil treatment" and "partial treatment" mean applications of pesticide for soil treatment that are not intended to provide protection from termite infestation for the entire structure treated.

(f) "Restricted-use pesticide" means any pesticide product registered by the secretary under the provisions of the agricultural chemical act of 1947, K.S.A. 2-2204 and amendments thereto, that is either labeled as a restricted-use pesticide by the federal agency responsible for the classification or designated as a restricted-use pesticide by the secretary.

(g) "Spot treatment" means remedial applications of pesticide to control termites at a specific location within a structure that are not intended to control termites at any location beyond the treatment area.

(h) "Stump treatment" means the application of pesticide to the cut stump of any tree or other woody plant to prevent regrowth.

(i) "Wood treatment" means the application of pesticide to wooden structural components, including joints, voids, galleries, and chambers, that are present within wooden construction elements. (Authorized by and implementing K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended July 18, 2003; amended Feb 29, 2008.)

K.A.R. 4-13-2. Pesticide business license application. Each application for issuance or renewal of a business license shall provide the following information in addition to that required by K.S.A. 2-2440 (b) (1) through (3), and amendments thereto: (a) The home address and birth date of each owner, officer, representative, and any resident agent;

(b) the name of any other state in which the applicant holds or has held a pesticide business license within the last five years and a list of any such license that has been denied, modified, revoked, suspended, or surrendered;

(c) for each business location serving Kansas, the business name and street address of the business and the name of the certified applicator or other person responsible for pesticide business activity at that location. "Business location" shall include all locations where records of application are maintained, where application equipment and pesticide materials are stored, and from which customers are served;

(d) the name of each certified commercial applicator serving the applicant, for each business location;

(e) the name, home address, birth date, and driver's license number of each non-certified employee who applies pesticides for the applicant. If the applicant's uncertified commercial applicator does not

have a driver's license, then the number assigned to any federal or state government-issued identification card shall be provided for that employee;

(f) the categories and subcategories in which the applicant business will operate;

(g) the signature and title of the applicant or authorized representative; and

(h) the date of submission of the application. (Authorized by and implementing K.S.A. 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended July 18, 2003; amended Feb. 5, 2010.)

K.A.R. 4-13-3. Categories and subcategories of qualification for the licensing of pesticide businesses and certification of commercial applicators.

(a) The categories and subcategories of qualification for licensing of pesticide businesses and certification of commercial applicators shall include the following:

(1) Category 1: agricultural pest control. This category shall include any commercial application of pesticide in the production of agricultural plants or animals.

(A) Subcategory 1A: agricultural plant pest control. This subcategory shall include any commercial application of pesticide on grasslands and noncrop agricultural lands, and in the production of agricultural crops, including tobacco, peanuts, cotton, feed grains, soybeans and forage, vegetables, small fruits, tree fruits, and nuts.

(B) Subcategory 1B: agricultural animal pest control. This subcategory shall include any commercial application of pesticide to places on, or in which, animals are confined and on animals, including beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock. This subcategory shall include any doctor of veterinary medicine who applies pesticides for hire, engages in the large-scale use of pesticides, or is publicly held out as a pesticide applicator.

(C) Subcategory 1C: wildlife damage control. This subcategory shall include any commercial application of pesticide for the management and control of wildlife in rangeland and agricultural areas. Wildlife shall mean nondomesticated vertebrate species that hinder agricultural and rangeland production.

(D) Subcategory 1D: stump treatment. This subcategory shall be limited to the commercial application of pesticide for the treatment of cut stumps to control resprouting in pastures, rangeland, or lands held in conservation reserve. Nothing in this subcategory shall prohibit stump treatment by pesticide businesses and commercial applicators in other categories and subcategories that include pesticide application to cut stumps.

(2) Category 2: forest pest control. This category shall include any commercial application of pesticide in forests, forest nurseries, and forest seed-producing areas.

(3) Category 3: ornamental and turf pest control. This category shall include any commercial application of pesticide in the maintenance of ornamental trees, shrubs, flowers, and turf.

(A) Subcategory 3A: ornamental pest control. This subcategory shall include any commercial application of pesticide to control pests in the maintenance and production of ornamental trees, shrubs, and flowers. This subcategory shall not include those pests included in subcategory 3C.

(B) Subcategory 3B: turf pest control. This subcategory shall include any commercial application of pesticide to control pests in the maintenance and production of turf.

(C) Subcategory 3C: interior landscape pest control. This subcategory shall include any commercial application of pesticide to control pests in the production and maintenance of houseplants and other indoor ornamental plants kept or located within structures occupied by humans, including houses, apartments, offices, shopping malls, and other places of business and dwelling places.

(4) Category 4: seed treatment. This category shall include any commercial application of pesticide on seeds.

(5) Category 5: aquatic pest control. This category shall include any commercial application of

pesticide to standing or running water. Applicators engaged in public health pest control and health-related pest control activities shall be excluded.

Subcategory 5S: sewer root control. This subcategory shall be limited to any commercial application of pesticide for the control of roots in sewer lines and septic systems.

(6) Category 6: right-of-way pest control. This category shall include any commercial application of pesticide to control vegetation in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, industrial sites, parking lots, or other similar areas.

(A) This category shall include the types of commercial pesticide application specified in subcategory 7C.

(B) This category shall not include those types of commercial pesticide application specified in paragraph (a)(9).

(7) Category 7: industrial, institutional, structural, and health-related pest control.

(A) This category shall include any commercial application of pesticide for the protection of stored, processed, or manufactured products. This category shall also include any commercial application of pesticide in, on, or around the following:

(i) Food handling establishments, human dwellings, institutions including schools and hospitals, and any other similar structures and the areas immediately adjacent to those structures; and

(ii) industrial establishments including warehouses, grain elevators, food processing plants, and any other related structures and adjacent areas.

(B) Subcategory 7A: wood-destroying pest control. This subcategory shall include any commercial application of pesticide in the control of termites, powder post beetles, wood borers, wood rot fungus, and any other wood-destroying pest.

(C) Subcategory 7B: stored products pest control. This subcategory shall include any commercial application of pesticide for the control of pests in stored grain and food products.

(D) Subcategory 7C: industrial weed control. This subcategory shall include any commercial application of pesticide for the control of pest weeds.

(E) Subcategory 7D: health-related pest control. This subcategory shall include any commercial application of pesticide in health programs for the management and control of terrestrial and aquatic pests having medical or public health significance.

(F) Subcategory 7E: structural pest control. This subcategory shall include any commercial application of pesticide in a structure for the control of any pest not covered in subcategories 7A and 7B.

(G) Subcategory 7F: wood preservation and wood products treatment. This subcategory shall include any commercial application of pesticide made to extend the life of wooden poles, posts, crossties, and other wood products to preserve or protect them from damage by insects, fungi, marine organisms, weather deterioration, or other wood-destroying agents.

(8) Category 8: public health pest control. This category shall apply to qualification for commercial certification of employees of government agencies, including state, federal, and other governmental agencies, who apply or supervise the application of a restricted-use pesticide for the management and control of terrestrial and aquatic pests having medical or public health significance.

(9) Category 9: regulatory pest control. This category shall apply to qualification for commercial certification of employees of government agencies, including state, federal, and other governmental agencies, who apply or supervise the application of a restricted-use pesticide in the control of federally regulated and state-regulated pests.

(A) Subcategory 9A: noxious weed control. This subcategory shall include qualification for commercial certification of employees of state, federal, and other governmental agencies who use or supervise the use of a restricted-use pesticide in the control of weed pests regulated under the Kansas noxious weed law.

(B) Subcategory 9B: regulated pest control. This subcategory shall include qualification for

commercial certification of employees of state, federal, and other governmental agencies who use or supervise the use of a restricted-use pesticide in the control of federally regulated or state-regulated pests not covered in subcategory 9A.

(10)(A) Category 10: demonstration and research pest control. This category shall include the following:

(i) Those persons who demonstrate to the public the proper techniques for application and use of restricted-use pesticides or who supervise such a demonstration. These persons shall include extension specialists, county agents, commercial representatives who demonstrate pesticide products, and persons who demonstrate, in public programs, methods of pesticide use;

(ii) those persons who use or supervise the use of restricted-use pesticides in conducting field research that involves the use of pesticides. These persons shall include state, federal, and commercial employees and other persons who conduct field research regarding or utilizing restricted-use pesticides; and

(iii) qualified laboratory personnel using restricted-use pesticides while engaged in pesticide research in areas where environmental factors beyond the control of laboratory personnel, including wind, rain, and similar factors, can affect the safe use of the pesticide or can cause the pesticide to have an adverse impact on the environment.

(B) The persons listed in paragraphs (a)(10)(A)(ii) and (iii) shall not be considered exempt from certification under the provisions of K.S.A. 2-2441a(d) and amendments thereto.

(b) Each pesticide business shall be licensed in all categories in which the pesticide business makes commercial pesticide applications and shall employ one or more persons who maintain commercial certification in each subcategory in which the pesticide business makes commercial pesticide applications.

(c) Each state, federal, and other governmental agency shall be registered in all categories and subcategories in which the agency makes commercial pesticide applications. (Authorized by K.S.A. 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2444a and K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended Feb 29, 2008; amended Feb. 5, 2010.)

K.A.R. 4-13-4. Written statement of service by business. (a) Any written statement of services or contract shall comply with the provisions of K.A.R. 4-13-4a and shall be presented to the customer before or upon completion of the work covered by said written statement or contract. Provided, that where the work covered involves two or more periodic applications over a specified period of time, such as monthly service calls for one year, the written statement shall be presented to the customer upon completion of the initial treatment. Supplemental statements setting forth the application date, each pesticide used, including the quantity applied, the wind direction and velocity, if any, and the applicator's signature shall be presented to the customer following each periodic application.

(b) This regulation shall be in force and effect from and after January 1, 1991. (Authorized by K.S.A. 1988 Supp. 2-2467a as amended by L. 1989, Ch. 6, § 16, implementing K.S.A. 2-2455 as amended by L. 1989, Ch. 6, § 15; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended Jan. 1, 1991.)

K.A.R. 4-13-4a. Requirements for written contract or statement of services by business. (a) Each written contract or statement of services issued by a pesticide business licensee shall meet the following requirements, in addition to the requirements of K.S.A. 2-2455 and amendments thereto:

(1) The address of the pesticide business licensee shall include the street address of the pesticide business licensee's office that provides the pest control service for the named customer.

(2) The address of the customer shall include either the street address or the rural route and box number, whichever is applicable.

(3) The name of each pest to be controlled shall be stated in terms of the common name for each pest or, in the alternative, shall be stated in terms of the scientific name for each pest.

(4) Notwithstanding the requirements of paragraph (3) of this subsection, if the pest to be controlled is a weed, the name of the pest may be stated as grassy or broadleaf weeds.

(b)(1) For each pesticide applied, the statement of services shall include the complete product name of the pesticide, as the name appears on the label, and the pesticide's EPA registration number. If the pesticide applied does not have an EPA registration number, the Kansas registration number shall be provided.

(2) The concentration of the pesticide shall include the percent of the active ingredient in the pesticide mixture or solution actually applied. The quantity of pesticide mixture actually applied shall be stated in gallons or other appropriate volumetric unit if the pesticide applied has been diluted. For granular pesticides or other pesticides that are applied undiluted, the quantity applied shall be expressed in terms of pounds or other appropriate units using dry weight. Rates of application shall be expressed in terms of a unit volume or weight of pesticide per unit of length, surface area, or volume corresponding to the mixing directions shown on the pesticide's label.

(3) Each statement of services shall include wind direction and velocity, except that this requirement shall not apply when the pesticide application is made in any of the following manners or locations or for any of the following reasons:

(A) Inside an enclosed structure;

(B) to control structural pests by use of a barrier treatment within 10 feet of the exterior of a building;

(C) for seed treatment;

(D) by direct injection of the pesticide into the soil or other substrate;

(E) by direct application to the soil in a trench around a structure; or

(F) by use of baiting stations, including the installation, servicing, and monitoring of the stations.

(c) Whenever any pesticide mixture or solution is applied at a dosage, concentration, or frequency of application that is less than that specified on the pesticide's label or labeling, at least one of the following requirements shall be met:

(1) The written statement of services shall state the following, or its equivalent, in a conspicuous manner: "PESTICIDE APPLIED AT LESS THAN LABEL RATE."

(2) In addition to or in lieu of the requirements of paragraph (c)(1), the licensee shall provide the customer with information about the conditions under which applications may be made at less than label dosage, concentration, or frequency, before the time of the initial application. The licensee shall obtain the customer's written acceptance of the use of these methods in writing before the initial application, which may be incorporated into any statement of service or contract, or both.

(d) Whenever any pesticide is applied in office buildings, apartment houses, or other multiple-tenant structures, the pesticide business licensee shall make available to the owner or manager of the structure information concerning any pesticide applied in the structure. In addition, information regarding any specific residence or business that has been treated with any pesticide shall be made available, upon the tenant's request, to the tenant of the residence or business treated.

(e) Whenever any pesticide is applied for the purpose of controlling termites, powder-post beetles, wood borers, wood-rot fungus, or any other wood-destroying pest, the licensee shall meet the following requirements:

(1) The diagram required by K.S.A. 2-2455(b)(3), and amendments thereto, shall clearly represent the structure being treated and indicate the location of basement areas, crawl spaces, concrete slab floors, and any concrete slabs adjacent to the outside of the foundation walls of the structure.

(2) If the pesticide application is not for a complete treatment of the entire structure, as defined by K.A.R. 4-13-1 and K.A.R. 4-13-7, the written statement of services shall state the following in a conspicuous manner: "LIMITED TREATMENT," "PARTIAL TREATMENT," "SPOT TREATMENT," "BAITING SYSTEM," "ALTERNATIVE TREATMENT," or other equivalent statement. Each pesticide application that is not for a complete treatment of the entire structure shall show the areas of treatment on the representative diagram. If the pesticide application is not for a complete treatment of the entire structure due to exigent circumstances, in addition to requirements listed above, the exigent circumstances shall be described on the statement of services.

(3) Each statement of services for termite control involving the use of baiting systems shall clearly state whether the pest control service performed consists of placement or inspection, or both, of baiting material that contains pesticide or consists of placement or inspection, or both, of monitoring stations that do not contain pesticide. Each statement of services shall include records of the dates of placement and inspection and the locations of all bait stations and monitoring stations. Diagrams of the structure being treated shall clearly show the locations of all monitors and baits.

(4) The dates of inspection or inspection intervals and the conditions under which monitoring materials will be replaced by baiting materials shall be stated in any contract for service or statement of services. Each licensee shall maintain records of the dates of placement and inspection and the locations of bait stations and monitoring stations. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2455; effective March 26, 1990; amended July 18, 2003.)

K.A.R. 4-13-5. Written statement of service by certified commercial applicator not acting for business.

(a) Any certified commercial applicator who is not employed by or otherwise acting for a pesticide business licensee shall prepare a written statement of work performed for each application of restricted use pesticides either made by or made under the direct supervision of the certified commercial applicator. Each such written statement of work performed shall set forth the following information:

(1) The name and address of the certified commercial applicator;

(2) All information required by K.S.A. 2-2455 as amended and supplemented and K.A.R. 4-13-4a except the name and address of the pesticide business licensee.

(b) This regulation shall be in force from and after January 1, 1991. (Authorized by and implementing K.S.A. 1988 Supp. 2-2467a as amended by L. 1989, Ch. 6, §16; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended Jan. 1, 1991.)

K.A.R. 4-13-6. Marking of vehicles. Each business licensee with a license in category 3 or 7, as specified in K.A.R. 4-13-3, shall mark any vehicle used in the application of pesticides, including any vehicle used in transporting pesticide application equipment to an application site. Each licensee shall place the business name or registered trade name and the pesticide business license number on each side of the vehicle, with letters and numbers not less than 1 1/2 inches in height and in a color contrasting from that

of the vehicle. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2456; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended July 18, 2003.)

K.A.R. 4-13-7. Termite control application procedures. (a) Except as provided in subsection (c), each structure shall be treated by applying pesticide at the rate, concentration, and dosage specified on the product label in a manner that provides wooden construction elements with protection from termites in the entire structure.

(b) Wood, paper scrap, cardboard scrap, and other cellulose-containing debris shall be removed from any accessible crawl space under the building to be treated.

(c) An application procedure different from that required by subsection (a) may be employed by a certified applicator. When a different application procedure is used, the pest control operator shall furnish adequate control and shall state on the required written statement the application procedure used. These methods of control shall be requested or agreed to by the customer in writing before completion of application. The applicator shall state, on the required statement of services and diagram, the application procedures used and how the procedures differ from the requirements of subsection (a). (Authorized by and implementing K.S.A. 2-2467a and K.S.A. 2-2471; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended July 18, 2003.)

K.A.R. 4-13-8. Surety bond requirement. Any surety bond submitted by a pesticide business licensee to comply with the provisions of K.S.A. 2-2448 as amended shall provide bond coverage of not less than \$6,000. The bond shall be effective for a period not to exceed one year and shall extend to December 31 of the licensing year. (Authorized by K.S.A. 1988 Supp. 2-2467a as amended by L. 1989, Ch. 6, §16; implementing K.S.A. 2-2448 as amended by L. 1989, Ch. 6, §17; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended May 1, 1983; amended March 26, 1990.)

K.A.R. 4-13-9. Report of address, name, or personnel change by business. (a) Each pesticide business licensee shall provide the secretary with written notification of any modification or change to the initial application regarding the business address or business name and of any change in service personnel involved in the application of pesticides. Each notification shall be provided within 30 days of the modification or change made by the pesticide business licensee. Notification shall be required for the following:

- (1) Hiring or terminating, or both, any employees involved in the application of pesticides;
- (2) making any change in certification or technician status, or both; and
- (3) making any change in the manager, operator, authorized representative, or resident agent.

(b) The pesticide business licensee shall submit with each such notification the required \$15.00 fee for each previously unreported uncertified individual employed to apply pesticides for a total of more than 10 days or for a period of five or more consecutive days during any 30-day period.

(c) Each notification shall include the full name, home address, birth date, and social security number of each applicator of pesticides listed who is a certified applicator or a registered pest control technician.

(d) Each notification shall also include the full name, home address, birth date, and driver's license number of each applicator of pesticides listed who is not a certified commercial applicator of pesticides or a registered pest control technician.

(e) The \$15.00 fee shall revert to \$10.00 on and after July 1, 2015, unless this date is modified by statute. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended, T-88-46, Nov. 10, 1987;

amended May 1, 1988; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb 29, 2008; amended Feb. 5, 2010.)

K.A.R. 4-13-10. Application for governmental agency registration. An application for a governmental agency registration or for renewal of a governmental agency registration shall provide the following information in addition to that required by K.S.A. 2-2440 (e):

- (1) If the applicant is a township, the county in which said township is located.
- (2) Names of certified applicators and uncertified persons working under their supervision who will work under the governmental agency registration being applied for.
- (3) Signature and title of the official submitting the application.
- (4) Date the application is submitted. (Authorized by K.S.A. 1977 Supp. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978.)

K.A.R. 4-13-12. Age Restriction for Certification. To be eligible for certification as a commercial applicator of restricted use pesticides, an individual shall be eighteen (18) years of age or older. (Authorized by K.S.A. 1977 Supp. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978.)

K.A.R. 4-13-13. Commercial applicator examinations. (a) Each general core examination for commercial applicator certification shall test the applicant's knowledge in the following subjects, in addition to testing the applicant's knowledge in those subjects specified in K.S.A. 2-2443a (a) through (h), and amendments thereto:

- (1) The general format and terminology of pesticide labels and labeling, the instructions, warnings, symbols and other information appearing on pesticide labels, the classification designation on pesticide labels, and the necessity of using each pesticide in a manner that is consistent with the information and instructions on its label;
- (2) safety factors, including pesticide toxicity; types and causes of pesticide accidents; precautionary measures that are necessary to guard against injury to the applicator and other individuals; symptoms of pesticide poisoning; first aid and other procedures to follow in case of a pesticide accident; proper identification, storage, transportation of, mixing, and handling of pesticides; prevention of and cleanup of pesticide spills; and disposal of pesticide containers;
- (3) the potential for damage to the environment from use and misuse of pesticides as influenced by factors including types of terrain, soil, and other substrata and drainage patterns;
- (4) pest development and biology relevant to pest identification and control;
- (5) the types of pesticides and pesticide formulations used, compatibility, synergism, persistence and animal and plant toxicity of pesticides, practices that cause pesticide resistance, and dilution procedures;
- (6) the types of equipment used and the limitations of each and equipment use, maintenance, and calibration;
- (7) proper application techniques for various pesticides and formulations of pesticide in given situations, relationship of placement of pesticides to proper use, unnecessary pesticide use and pesticide misuse, and prevention of pesticide loss into the environment through drift and other means; and
- (8) requirements that must be met by a certified applicator in supervising noncertified applicators of restricted pesticides, including practical knowledge of federal and state supervisory requirements, requirements found on labeling, requirements regarding verifiable instruction of the noncertified applicator and availability of certified applicator during application, and any added restrictions that may

be imposed for specific pesticides through labeling, including the required physical presence of the supervising applicator during the application.

(b) As specified in this subsection, each category or subcategory examination for commercial applicator certification shall test the applicant's practical knowledge of the category or subcategory of certification in which the applicant wishes to be certified, in addition to testing the applicant's practical knowledge in those subjects specified in K.S.A. 2-2443a and amendments thereto.

(1) Agricultural pest control.

(A) Each examination for agricultural plant pest control applicators shall test the applicant's practical knowledge of the crops grown in Kansas and the specific pests commonly associated with these crops, potential soil and water damage, preharvest intervals, reentry intervals, phytotoxicity, environmental contamination, nontarget injury, and potential adverse effects on the community that are related to the use of restricted pesticides in agricultural areas.

(B) Each examination for agricultural animal pest control applicators shall test the applicant's practical knowledge of Kansas agricultural animals and their pests, specific pesticide toxicity levels, residue potential and relative hazards associated with various pesticide formulations, application techniques, ages of animals, and the stress and extent of treatment.

(C) Each examination for wildlife damage control applicators shall test the applicant's practical knowledge of vertebrate pest species and damage associated with each species, methods useful in damage prevention, products used in damage control, the potential for direct poisoning of nontarget species, the potential for secondary poisonings, effects upon threatened and endangered species, specific pesticide toxicity and residue levels, and methods of application necessary to minimize hazards to humans, the environment, pets, and domestic animals.

(D) Each examination for stump treatment applicators shall test the applicant's practical knowledge of stump control methods, limited area applications, and the potential adverse effects of pesticides.

(2) Forest pest control. Each examination for forest pest control applicators shall test the applicant's practical knowledge of types of forests, forest nurseries and forest seed production in Kansas and of the pests associated with them, pest cycles and population dynamics as they influence control programming, biotic agents and their relative vulnerability to pesticides, and proper use of specialized equipment as it relates to adjacent land use.

(3) Ornamental and turf pest control.

(A) Each examination for ornamental pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production and maintenance of ornamental trees, shrubs and flowers in Kansas, potential phytotoxicity problems related to the wide variety of plants in treated areas, pesticide persistence beyond the intended period of control, and application methods that minimize hazards to humans, pets, and domestic animals.

(B) Each examination for turf pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production and maintenance of turf in Kansas, potential phytotoxicity problems related to the wide variety of plants in treated areas, pesticide persistence beyond the intended period of control, and application methods that minimize hazards to humans, pets, and domestic animals.

(C) Each examination for interior landscape pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production and maintenance of houseplants and other ornamental plants kept or located within structures occupied by humans, including houses, apartments, offices, shopping malls, other places of business, and other dwelling places. The examination shall also test the applicant's practical knowledge of potential phytotoxicity problems related to treatment of plants in enclosed areas, pesticide persistence beyond the intended period of control, and application methods that minimize hazards to humans, pets, and domestic

animals.

(4) Seed treatment. Each examination for seed treatment applicators shall test the applicant's practical knowledge of the types of seeds that require protection against pests, factors that could affect germination, including seed coloration, carriers and surface active agents, hazards associated with handling, storing, mixing and misuse of treated seeds, and the proper disposal of unused treated seeds.

(5) Aquatic pest control.

(A) Each examination for aquatic pest control applicators shall test the applicant's practical knowledge of secondary effects caused by improper application rates, incorrect formulations, and faulty aquatic pesticide applications; knowledge of various water use situations and the potential of downstream effects; knowledge of potential effects on plants, fish, birds, beneficial insects, and other organisms in the aquatic environment; and knowledge of the principles of limited area application.

(B) Each examination for sewer root control shall test the applicant's practical knowledge of sewer control methods, limited area applications, and potential adverse effects of pesticides.

(6) Right-of-way pest control. Each examination for right-of-way pest control applicators shall test the applicant's practical knowledge of the wide variety of environments crossed by rights-of-way, problems of runoff, drift and excessive foliage destruction, the nature of herbicides, the need for containment of herbicides within the right-of-way area, and the impact of the applicator's activities on adjacent areas and communities.

(7) Industrial, institutional, structural, and health related pest control.

(A) Each examination for wood-destroying pest control applicators shall test the applicant's practical knowledge of wood-destroying pests and their life cycles, pesticide

formulations appropriate for the control of these pests, methods of application that avoid exposure of people and pets, and specific factors that can lead to hazardous conditions, including continuous exposure to the pesticide.

(B) Each examination for stored products pest control shall test the applicant's practical knowledge of pests found in stored grain and food processing areas, their life cycles, pesticide formulations appropriate for their control, methods of application that avoid contamination of food products and exposure of people, and specific factors that can lead to a hazardous condition, including continuous exposure.

(C) Each examination for industrial weed control applicators shall test the applicant's practical knowledge of weed pests found in industrial areas, pesticide formulations appropriate for the control of these pests, methods of application that avoid contamination of habitat and exposure of people and pets, and environmental conditions particularly related to this activity.

(D) Each examination for health-related pest control applicators shall test the applicant's practical knowledge of vector-disease transmission as it relates to and influences application programs, pests that adversely affect public health and their life cycles and habitats, and the variety of environments in which these pests are encountered.

(E) Each examination for structural pest control applicators shall test the applicant's practical knowledge of the wide variety of pests found in buildings, including their life cycles; types of pesticide formulations appropriate for their control and methods of application that avoid contamination of food, damage to and contamination of habitat, and exposure of people and pets; specific factors that can lead to a hazardous condition, including continuous

exposure in the various situations encountered in this category; and environmental conditions particularly related to this activity.

(F) Each examination for wood preservation and wood-products treatment applicators shall test the applicant's practical knowledge of pest problems and pests associated with wood degradation, including their life cycles, types of pesticide formulations appropriate for their control, methods of application,

application hazards and safety, and the proper means of container storage and container and waste disposal. The examination shall also test the applicant's practical knowledge of procedures to contain spills and to avoid contamination and exposure of the environment, including people, domestic animals, and wildlife.

(8) Public health pest control. Each examination for public health pest control applicators shall test the applicant's practical knowledge of vector-disease transmission as it relates to and influences application programs, pests that adversely affect public health and their life cycles and habitats, the variety of environments in which these pests are encountered, and the importance of nonchemical control methods including sanitation, waste disposal, and drainage.

(9) Regulatory pest control.

(A) Each examination for noxious weed control applicators shall test the applicant's practical knowledge of pest weeds as regulated by the Kansas noxious weed law, the potential impact on the environment of restricted use pesticides used in suppression and eradication programs, and factors influencing the introduction, spread, and population dynamics of those pest weeds.

(B) Each examination for regulated pest control applicators shall test the applicant's practical knowledge of federally regulated and state-regulated pests, applicable laws relating to quarantine and other regulations regarding pests, the potential impact on the environment of restricted use pesticides used in suppression and eradication programs, and factors influencing the introduction, spread, and population dynamics of relevant pests.

(10) Demonstration and research pest control. Each examination for demonstration and research pest control applicators shall test the applicant's practical knowledge of the many different pest problems encountered in the course of activities associated with demonstration, field research and method improvement work, pesticide-organism interactions, and the importance of integrating pesticide use with control methods. Each applicator shall meet the examination requirements for application in the other categories that are applicable to the applicator's particular activity.

(c) A grade of at least 75% correct answers shall be required to pass each commercial applicator examination. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2006 Supp. 2-2443a and K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended May 1, 1985; amended, T-87-39, Nov. 19, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 1, 1989; amended Feb 29, 2008.)

K.A.R. 4-13-14. Private applicator examination. Initial examinations for certified private applicators shall be taken in the presence of a representative of the Kansas department of agriculture or the Kansas state university extension service. Each applicant for this certification ~~is~~ shall be required to answer at least 75% of the questions correctly to pass the examination.

Examinations for private applicator certification shall test the applicant's knowledge in those subject areas specified in K.S.A. 2-2445, and amendments thereto, involving pest control practices associated with the applicant's agricultural operation and the applicant's legal responsibility as a certified applicator of restricted pesticides. Each applicant shall be tested to determine the applicant's ability to meet the following requirements:

(a) Recognize common pests to be controlled and damage caused by them;

(b) read and understand the label and labeling information, including the common name of the pesticide applied, pest or pests to be controlled, timing and methods of application, safety precautions, any preharvest reentry restrictions, and any specific disposal procedures;

(c) apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into

account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation;

(d) recognize local environmental situations that must be considered during application to avoid contamination;

(e) recognize poisoning symptoms and procedures to follow in case of a pesticide accident; and

(f) understand federal and state supervisory requirements, including labeling, that must be met by a certified private applicator in supervising the non-certified application of restricted pesticides. These supervisory requirements shall include verifiable instruction of the applicator, availability during application, and any added restrictions that may be imposed for specific pesticides through labeling. These restrictions may include the required physical presence of the supervising applicator during the application. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2445a, as amended by L. 2009, Ch. 128, §18; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended May 1, 1988; amended Feb. 5, 2010.)

K.A.R. 4-13-15. Certificates and pocket cards. A certificate and pocket card shall be issued to each certified person upon satisfactory completion of the requirements for certification. Such certificate and pocket card shall show the applicator's name, type of certificate issued, the category of issuance including subcategory, if any, the expiration date of the certification and other pertinent information. The certified applicator shall produce such certificate or pocket card when requested to do so by any customer, law enforcement official, the secretary or any authorized representative of the secretary. (Authorized by K.S.A. 1989 Supp. 2-2467a; implementing K.S.A. 2-2441a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended June 4, 1990.)

K.A.R. 4-13-16. Supervision of uncertified applicators. (a) An uncertified commercial applicator of any pesticide and an uncertified private applicator of restricted-use pesticides shall be considered to be under the supervision of a certified applicator if the certified applicator has provided the uncertified applicator with instructions in the handling and application of the pesticide being used.

(b) The certified applicator shall be available to the uncertified applicator by telephone, two-way radio, or other comparable means of communication when the pesticide is being applied.

(c) The certified applicator shall be physically present if that person's presence is required by the pesticide label.

(d) The certified applicator shall verify that the requirements of this regulation were met when requested to do so by the secretary or the secretary's authorized representative.

(e) An uncertified applicator of pesticides, including registered pest control technicians, shall be considered to be under the supervision of a certified commercial applicator only if both individuals are stationed at and work from the same business address. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2441a, as amended by L. 2009, Ch. 128, §16; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended Feb. 5, 2010.)

K.A.R. 4-13-17. Report of address change by certified applicators. Each certified commercial applicator shall notify the secretary of any change in that applicator's mailing address within 30 days of the change. (Authorized by and implementing K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended Feb. 5, 2010.)

K.A.R. 4-13-18. Disposal of pesticides and containers. Any amount of unused pesticide and each empty pesticide container shall be stored in the same manner as the pesticide involved until the unused pesticide or empty container is disposed of in a manner consistent with technology current at the time of disposal. Questions regarding the latest technology shall be submitted to any of the following: (a) The Kansas department of agriculture; (b) Kansas state university extension service; (c) Kansas department of health and environment; or (d) the United States environmental protection agency. (Authorized by and implementing K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended Feb. 5, 2010.)

K.A.R. 4-13-19. Marking of aircraft. Each pesticide business licensed in category one (1) which uses aircraft to apply pesticides shall identify each aircraft with a decal furnished by the secretary. Decals shall not be issued until all licensing requirements have been satisfied. Decals shall not be transferable. For fixed wing aircraft, the decal shall be affixed to and prominently displayed on the left rear portion of the cockpit or the canopy or on the left rear portion of the fuselage near the rear of the cockpit or canopy. For rotorcraft, the decal shall be affixed to and prominently displayed on the left side of the aircraft but not on the tail rotor. (Authorized by K.S.A. 1980 Supp. 2-2467a; implementing K.S.A. 1980 Supp. 2-2456; effective May 1, 1981.)

K.A.R. 4-13-20. Pesticide business license, renewal, and uncertified commercial applicator fees. The application fee for a pesticide business license or for the renewal of a pesticide business license shall be \$140.00 for each category in which the applicant applies for a pesticide business license or renewal of that license. An additional fee of \$15.00 for each uncertified commercial applicator employed by the applicant to apply pesticides shall also be paid. This regulation shall apply to all pesticide business licenses, or renewals of these licenses, that will be effective through June 30, 2015, regardless of when the application is received by the agency.

The \$140.00 pesticide business license fee shall revert to \$112.00 on and after July 1, 2015, unless this date is modified by statute. The \$15.00 uncertified commercial applicator fee shall revert to \$10.00 on and after July 1, 2015, unless this date is modified by statute. (Authorized by K.S.A. 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended Feb. 5, 2010.)

K.A.R. 4-13-21. Government agency registration and renewal fees. The application fee for a government agency registration shall be \$50.00. This regulation shall apply to all government agency registrations, or renewals of these registrations, effective through June 30, 2015, regardless of when the agency receives the application. The \$50.00 government agency registration fee shall revert to \$35.00 on and after July 1, 2015, unless this date is modified by statute. (Authorized by K.S.A. 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended Feb. 5, 2010.)

K.A.R. 4-13-23. Examination fees. The examination fee for a commercial applicator's certificate shall be \$45.00 through June 30, 2015, for each category, subcategory, and general core examination taken. The fee shall also apply if the applicant seeks reexamination. The \$45.00 examination fee shall revert to \$35.00 on and after July 1, 2015, unless this date is modified by statute. (Authorized by K.S.A. 2008 Supp. 2-2443a, as amended by L. 2009, Ch. 128, §17, and K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2443a, as amended by L. 2009, Ch. 128, §17; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended Feb. 5, 2010.)

K.A.R. 4-13-24. Certified private applicator's certificate fee. The certified private applicator's certificate fee shall be \$25.00. This regulation shall apply to certified private applicator certificates that will be effective through June 30, 2015, regardless of when the department receives the application. The \$25.00 certified private applicator's certificate fee shall revert to \$10.00 on and after July 1, 2015, unless this date is modified by statute. (Authorized by K.S.A. 2008 Supp. 2-2445a, as amended by L. 2009, Ch. 128, §18, and K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2445a, as amended by L. 2009, Ch. 128, §18; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended Feb. 5, 2010.)

K.A.R. 4-13-25. Bulk pesticide storage and handling of pesticides; definitions. As used in K.A.R. 4-13-25 through 4-13-25m, the following terms shall be defined as follows:

(a) "Appurtenance" means any valve, pump, fitting, pipe, hose, auger, metering device, and dispensing device connected to a storage container. "Dispensing device" shall include any device that is used to transfer bulk pesticides into or out of a container.

(b) "Bulk pesticide" means any pesticide, whether liquid or solid, that is kept at ambient temperature and pressure and is stored, loaded, or unloaded in an individual container of undivided capacity in quantities identified in K.A.R. 4-13-25b.

(c) "Bulk pesticide container" means any receptacle or device in which a pesticide is stored, mixed, treated, disposed of, or handled in any manner in quantities greater than 55 gallons liquid measure or quantities greater than 100 pounds net dry weight.

(d) "Bulk pesticide storage facility" and "facility" mean any warehouse, loading pad, or other area where a bulk pesticide is stored, mixed, loaded, or unloaded, unless otherwise exempted. Each bulk pesticide storage facility located within 300 feet of another facility owned or operated by the same person shall be considered the same facility for the purpose of finding the number of consecutive days in storage and determining whether the facility is exempt from the requirements of K.A.R. 4-13-25 through K.A.R. 4-13-25m.

(e) "Chemically compatible" means that the material will not react chemically adversely or electrolytically adversely to the bulk pesticide being stored, loaded, unloaded, mixed, or handled.

(f) "Discharge" means any spilling, leaking, depositing, pumping, dumping, or emptying, whether accidental or intentional, resulting in the release of a pesticide or material containing a pesticide at a bulk pesticide storage facility. "Discharge" shall not include the lawful transferring, loading, unloading, repackaging, refilling, distributing, using, disposing, or application of a pesticide. This term shall also exclude the normal washing and rinsing activities on a mixing and loading pad.

(g) “Dry bulk pesticide” means any bulk pesticide that is in solid form before any end-use application or before any mixing for end-use application. This term shall include making formulations including dusts, powders, and granules.

(h) “End-use application” means the application of a pesticide by the owner or lessee of the real property upon which the application is made to control a pest covered by the pesticide label.

(i) “Flood plain” means an area at one percent or greater risk of flood occurrence in any given year.

(j) “Gallon” means the United States standard measure of a gallon.

(k) “Liquid bulk pesticide” means any bulk pesticide in liquid form before dilution for end-use application. This term shall include solutions, emulsions, suspensions, slurries, and gels.

(l) “Mixing and loading pad” and “pad” mean a surface designed to provide containment of a pesticide during the loading, unloading, mixing, or handling of a pesticide, or during the cleaning, rinsing, or refilling of a pesticide container.

(m) “Mobile container” means a bulk pesticide container that is designed and used for transporting bulk pesticides.

(n) “Owner or operator” shall include any agent or employee of an owner or operator and mean any of the following:

- (1) A pesticide dealer as defined by K.S.A. 2-2438a(q) and amendments thereto;
- (2) a pesticide business licensee as defined by K.S.A. 2-2438a(p) and amendments thereto;
- (3) a government agency registrant as addressed in K.S.A. 2-2440(e) and amendments thereto;
- (4) a certified private applicator, as defined by K.S.A. 2-2438a(c)(2) and amendments thereto, of a bulk pesticide storage facility; or
- (5) any other person, as defined by K.S.A. 2-2438a(l) and amendments thereto, responsible for the storage of bulk pesticides as defined by subsection (b).

(o) “Permanent cessation of operations” means either of the following:

- (1) No pesticides have been loaded, unloaded, or stored at the facility for 12 consecutive months.
- (2) The facility has gone out of business and is no longer a going concern.

(p) “Reasonably foreseeable” means what the secretary determines would have been foreseeable at the time the decision affecting the facility or its condition was made. “Reasonable foreseeability” shall include consideration of the owner’s or operator’s knowledge of conditions at the time the condition was created or the decision was made.

(q) “Secondary containment” means any structure, tank, or container, including rigid diking, that is designed, constructed, and maintained to intercept, hold, contain, or confine a discharge from a bulk pesticide container and to contain spills, prevent runoff, and avoid leaching.

(r) “Static pressure” means the pressure exerted by a fluid that is not flowing or moving.

(s) “Sump” means a recessed reservoir or catch basin designed to be a receptacle for the collection of liquids in the floor of secondary containment or in the part of the secondary containment that constitutes the loading pad. (Authorized by and implementing K.S.A. 2-2467a; effective May 1, 1985; amended Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25a. Exemptions. (a) The regulations found in K.A.R. 4-13-25 through K.A.R. 4-13-25k shall not apply to any of the following:

- (1) A mobile container of 350-gallon capacity or less, if the use of the container is solely incidental to the end-use application of the bulk pesticide and if the container is not at a specific location for more than 60 days of storage in any consecutive 365-day period;

(2) a sealed or an unopened pesticide manufacturer's storage container being loaded or unloaded;
(3) a railcar in which the storage of bulk pesticides is solely incidental to the transportation of the pesticide and that remains on a train track; or

(4) a bulk pesticide stored, loaded, or unloaded in quantities less than all the quantities specified in K.A.R. 4-13-25b.

(b) The owner or operator of a facility shall have the burden of establishing the applicability of an exemption under paragraph (a)(4) of this regulation.

(c) Contemporaneously kept records maintained pursuant to K.A.R. 4-13-25k shall constitute prima facie evidence of an exemption. (Authorized by and implementing K.S.A. 2-2467a and 2-2471; effective Dec. 27, 2002.)

K.A.R. 4-13-25b. Quantities of bulk pesticide. A facility shall be subject to the requirements of K.A.R. 4-13-25 through K.A.R. 4-13-25k if any of the following conditions is met:

(a) A cumulative total of 1,000 gallons or more of liquid bulk pesticide is transferred away from the facility during any consecutive 365-day period.

(b) A total of 1,000 gallons or more of liquid bulk pesticide is stored, held, or maintained at the facility at any time.

(c) A cumulative total of 3,000 pounds or more of dry bulk pesticide is transferred away from the facility during any consecutive 365-day period.

(d) A total of 3,000 pounds or more of dry bulk pesticide is stored, held, or maintained at the facility at any time. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25c. Location, design, and construction requirements of a bulk pesticide storage facility.

Each owner or operator shall meet the following requirements: (a)(1) Each bulk pesticide storage facility shall be designed, constructed, and maintained according to the pesticide manufacturer's directions, instructions, or recommendations. The facility shall be constructed of materials that contain spills, prevent runoff, and avoid leaching of the pesticide being mixed, loaded, or unloaded. Construction materials shall be chemically compatible with the pesticides that come in contact with the material.

(2) Each bulk pesticide storage facility shall be designed, constructed, and maintained to accommodate all reasonably foreseeable loading and unloading conditions, including the anticipated wheel load of a vehicle, and to protect appurtenances and bulk pesticide containers against damage from operating personnel and moving equipment through the use of flexible connections, guard rails, barriers, and protective cages, where necessary.

(3) Asphalt shall not be used as a material in the construction of a bulk pesticide storage facility.

(b) No bulk pesticide storage facility shall be constructed or maintained in a flood plain unless the bulk pesticide is stored above the base flood elevation.

(c) The floor of each bulk pesticide storage facility shall be constructed of material that prevents the movement of pesticide materials and moisture through the floor and shall be designed, constructed, and maintained in a manner that allows discharges to be collected, contained, and recovered.

(d) All electrical equipment and wiring shall be elevated to prevent the equipment and wiring from becoming submerged and shall be grounded to dissipate static electricity.

(e) Both private and public water supplies shall be protected from contamination from the bulk pesticide storage facility.

(f) Each bulk pesticide storage facility shall contain a mixing and loading pad.

(g) Each bulk pesticide storage facility shall be secured to protect against reasonably foreseeable unauthorized access that could result in a discharge.

(h) Each bulk pesticide storage facility shall be designed, constructed, and maintained to prevent contact of any dry bulk pesticide with precipitation. Contact with precipitation shall be prevented by the following:

(1) Using a permanent cover; and

(2) placing dry bulk pesticide on pallets or a raised concrete platform enclosed by a curb that is at least six inches high and extends at least two feet beyond the perimeter of the dry bulk pesticide storage area.

(i) Each bulk pesticide storage facility shall be designed, constructed, and maintained to avoid the creation of pesticide waste and to prevent cross-contamination of pesticides.

(j) Bulk pesticides shall not be stored or mixed in underground containers. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25d. Secondary containment for bulk pesticide storage. Each owner or operator shall meet the following requirements: (a) All bulk pesticide shall be stored within secondary containment. The secondary containment capacity shall be at least 110 percent of the capacity of the largest single bulk pesticide container in addition to the displacement of tanks, appurtenances, fixtures, equipment, and material located within the secondary containment.

(b) The secondary containment, including the floor or bottom of the secondary containment, shall meet the following requirements:

(1) Be constructed of steel, reinforced concrete, or any other material of sufficient thickness, density, and composition to contain any discharged pesticide material;

(2) be leakproof with cracks, seams, and joints sealed; and

(3) for liquids, be capable of withstanding the static pressure resulting from the secondary containment being completely filled with a liquid having a density greater than or equal to the density of the most dense liquid bulk pesticide to be stored within the containment.

(c) A soil liner shall not be considered adequate for the secondary containment of pesticides. Masonry block, asphalt, earthen materials, unfired or fired clay, clay, natural soil-clay mixtures, clay-bentonite mixtures, and prefabricated bentonite liners shall not be deemed to be of appropriate density and composition to contain discharged pesticide material and shall not be used as secondary containment. Sealant-coated concrete blocks may be used if the facility owner's or operator's use of the blocks is approved in writing by the manufacturer of the pesticide.

(d) The floor of the secondary containment shall drain to a sump or other specific point of recovery.

(e) The sump or other specific point of recovery shall be emptied daily in accordance with K.A.R. 4-13-25g(a) by an on-site operator, who shall continuously monitor this process. The on-site operator may use an automatically activated pump to empty the sump if an automatic overflow switch is installed for the receiving container.

(f) No outlet, drain, or other means of penetration shall be located through the floor, bottom, or walls of the secondary containment.

(g) Secondary containment shall be constructed to allow the interior and exterior of the walls to be viewed.

(h) A synthetic liner used to line the secondary containment shall be installed and maintained according to the liner manufacturer's specifications, directions, and recommendations. The specifications, directions, and recommendations about liners from the manufacturers of the pesticides stored in the facility shall also be followed. All seams shall be tested, maintained, and repaired according to the manufacturer's specifications, directions, and recommendations. The liner shall be replaced if it cannot be repaired to meet the liner manufacturer's requirements. In no event shall a liner that is incapable of containing bulk pesticides independent of the support of another container be used in lieu of secondary containment. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25e. Requirements for mixing and loading pads for bulk pesticides. Each owner or operator shall meet the following requirements: (a) Each mixing and loading pad not connected to a storage area shall be of adequate size and design to contain at least 110 percent of the capacity of the container or tank on the pad and the displacement of tanks, equipment, appurtenances, fixtures, and material located on the pad.

(b) Each mixing and loading pad shall be constructed to contain any discharge and shall be leakproof with all cracks, seams, and joints sealed. The pad shall be impervious to spills and capable of supporting the weight of the heaviest vehicle plus all loading, unloading, and mixing operations. The floor of the mixing and loading pad shall slope to a single point or to a sump, for the recovery of liquid spills.

(c) The sump shall be emptied daily by an on-site operator, who shall continuously monitor this process. The on-site operator may use an automatically activated pump to empty the sump if an automatic overflow switch is installed for the receiving container. The owner or operator may use the recovered pesticide for its intended purpose if it can be used according to the recovered pesticide's label. The owner or operator shall dispose of, in accordance with the label, any recovered pesticide that cannot be used.

(d) The following activities conducted at the facility shall be performed on the mixing and loading pad or within secondary containment:

- (1) Filling pesticide containers;
- (2) washing application equipment;
- (3) rinsing pesticide containers or application equipment;
- (4) mixing operations; and

(5) loading application equipment. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25f. Requirements for bulk pesticide containers and appurtenances. Each owner or operator shall meet the following requirements: (a) Each bulk pesticide container shall be designed to handle all operating stresses, including static pressure, pressure buildup from pumps and compressors, and any other mechanical stresses to which the storage container could be subject during operations. Each bulk pesticide container shall be chemically compatible with the pesticide it holds and shall meet all specifications, directions, and recommendations of the manufacturers of the pesticide and bulk pesticide container.

(b) Each bulk pesticide container connection, except for safety relief connections, shall be equipped with a shutoff valve accessible and located within the secondary containment.

(c) Except while the stored pesticide is being removed from the container, shutoff valves shall be left either closed and locked or otherwise secured from access. The transfer of pesticide from one bulk pesticide container to another and between a bulk pesticide container and a transport vehicle shall be attended at all times by an on-site operator.

(d) Bulk pesticide containers and appurtenances shall be supported to prevent sagging.

(e) Sight gauges shall not be used on bulk pesticide containers.

(f) Each bulk pesticide container that is not located within a structure with a roof and walls shall be designed, installed, and maintained to prevent flotation and to withstand winds of 90 miles per hour or less.

(g) Each bulk pesticide container shall be designed to protect against excessive internal pressure or vacuum.

(h) Each bulk pesticide container used for storage shall be marked clearly to identify the pesticide stored in the container. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25g. Discharge, recovery, and reporting requirements. (a) Each owner or operator shall recover promptly any discharge. The owner or operator may use the recovered pesticide for its intended purpose if it can be used according to the recovered pesticide's label or labeling. The owner or operator shall dispose of, in accordance with the label, any recovered pesticide that cannot be used.

(b) The owner or operator shall notify the secretary within 48 hours of any discharge not contained by secondary containment. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25h. Submission of diagrams, plans, and specifications. (a) The owner or operator of each bulk pesticide storage facility shall maintain diagrams, plans, and specifications of the facility on site and with the secretary. The copy maintained at the facility shall be made available to a representative of the secretary upon request.

(b)(1) Each owner or operator of a bulk pesticide storage facility that is to be remodeled, an existing structure that is to be converted to use as a bulk pesticide storage facility, or a proposed bulk pesticide storage facility shall submit diagrams, plans, and specifications to the secretary before commencement of remodeling, conversion, or construction. Remodeling, conversion, or construction shall not commence until the owner or operator receives written notice from the secretary that no further information is required.

(2) The owner or operator of each facility under this subsection shall complete remodeling, conversion, or construction within two years after the secretary's written notice that no additional information is required. Upon completion of the remodel, conversion, or construction, the owner or operator of a facility under this subsection shall certify on a form prescribed by the secretary that the facility meets or exceeds all the requirements of K.A.R. 4-13-25 through K.A.R. 4-13-25k and is constructed in accordance with the diagrams, plans, and specifications submitted to the secretary.

(c) The diagrams, plans, and specifications shall include the facility layout, mechanical and electrical diagrams, construction materials, and the type of equipment that is located in the facility or that is to be fixed or installed in the facility. The diagrams shall be drawn to scale and shall be legible without magnification. The diagrams, plans, and specifications shall contain all information required in subsection (d).

(d) The diagrams, plans, and specifications of the bulk pesticide storage facility shall be submitted with the form prescribed by the secretary. The required documentation shall include, at a minimum, the following information:

- (1) The location of the facility relative to the flood plain;
- (2) the location of the facility relative to any surface water within 1,320 feet of the facility and the distance between the facility and the surface water;
- (3) the distance from both the facility and the area within 100 feet of the facility to groundwater, and the location of the groundwater relative to the facility;
- (4) the location of any plumbing and access to private and public water supplies and the distance from the plumbing and access to the private and public water supplies;
- (5) the drainage pattern of the facility;
- (6) certification that the facility is not located on any abandoned or active oil, gas, or water well;
- (7) certification that the facility is not located on a utility easement;
- (8) the size and location of the proposed walls and flooring to be located within the facility;
- (9) the location and size of each bulk pesticide storage container;
- (10) the location and size of each loading and mixing pad;
- (11) the location of each appurtenance used in the storage or transfer of bulk pesticide within the facility;
- (12) the location of electrical equipment, wiring, and static grounding wires;
- (13) the location and size of dry bulk pesticide storage; and
- (14) any other relevant information required by the secretary.

(e) Each owner or operator of a bulk pesticide storage facility shall submit the diagrams, plans, and specifications required in this regulation to the secretary at least 30 days before the date the owner or operator proposes that the construction will commence.

(f) Additional time to comply with any deadline in this regulation may be granted by the secretary upon receipt of a written request and upon a showing of good cause for the additional time requested. Each request shall state the reason for the additional time requested and the amount of additional time needed.

(g) The construction, remodeling, conversion, and maintenance of a facility shall conform with the diagrams, plans, and specifications submitted and required by K.A.R. 4-13-25a through K.A.R. 4-13-25k. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25j. Bulk pesticide storage facility inspection and maintenance requirements.

(a) Each owner or operator shall inspect the bulk pesticide storage facility and secondary containment, including all appurtenances, at least monthly for any defects, including the following:

- (1) Corrosion;
- (2) leaks;
- (3) cracks;
- (4) spills;
- (5) gaps;
- (6) tears;
- (7) unsealed joints;
- (8) cross-contamination of pesticides;
- (9) structural defects;

(10) equipment defects; and

(11) any other defect in the facility or potential violation of K.A.R. 4-13-25 through K.A.R. 4-13-25k. The owner or operator shall promptly correct any defect.

(b) Upon the discovery of each defect or potential violation specified in subsection (a) that compromises the facility's ability to contain the pesticide, the owner or operator shall, within 24 hours after the discovery, either initiate repairs to correct the defect or take the appurtenance or secondary containment out of service. If the appurtenance or secondary containment is left in service, the defect or potential violation shall be corrected within 14 days following the discovery. If the defect or potential violation is not corrected within 14 days following the discovery, the appurtenance or secondary containment shall be removed from service.

(c) The owner or operator shall make a record of the following:

(1) Each inspection performed pursuant to subsection (a);

(2) each discharge within the facility in excess of 55 gallons; and

(3) more than one discharge within the facility in a 24-hour period totaling or exceeding 55 gallons.

(d) Each record made pursuant to subsection (c) shall include the following:

(1) The name of the person making the record;

(2) the date the record was made;

(3) if any inspection is performed, the following:

(A) The date of the inspection;

(B) a description of any defect found; and

(C) a description of any repairs made to remedy the defect;

(4) if a discharge occurred, the following:

(A) The date of the discharge;

(B) the amount of the discharge;

(C) the cause of the discharge;

(D) a description of any repairs made; and

(E) the date and time the secretary was notified pursuant to K.A.R. 5-13-25g;

(5) the date any defective equipment at the facility is taken out of service; and

(6) the date any defective equipment is placed back into service.

(e) All records maintained at the facility shall be retained for three years from the date of the record and shall be made available to the secretary or an authorized representative of the secretary upon request. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25k. Site closure and discontinuation of operation. (a) The owner or operator shall notify the secretary within 30 calendar days following the permanent cessation of operations of a bulk pesticide storage facility.

(b) Whenever a bulk pesticide storage facility permanently ceases operations, the owner or operator shall provide the secretary with written verification of both of the following, on a form prescribed by the secretary:

(1) All pesticides, solutions containing a pesticide, wash waters, and other materials that may contain pesticides have been removed from the facility and have been used or disposed of according to the pesticide's label or labeling, and according to all federal, state, and local requirements.

(2) All bulk pesticide containers, appurtenances, mixing and loading pads, and sumps have been thoroughly cleaned according to each pesticide manufacturer's requirements, instructions, directions, or recommendations or, if none exist, according to standard industry practice. (Authorized by and implementing K.S.A. 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25l. Penalty for noncompliance with pesticide containment. (a) The license, certification, or registration of any pesticide business licensee, governmental agency registrant, pesticide dealer, or certified private applicator who is found to have violated a pesticide containment requirement in K.A.R. 4-13-25a through 4-13-25k shall be subject to suspension, revocation, nonrenewal, or cancellation.

(b) Any pesticide business licensee or pesticide dealer who is found to have violated a pesticide containment requirement in K.A.R. 4-13-25 through 4-13-25k may incur a civil penalty in accordance with K.A.R. 4-13-62.

(c) Enforcement of K.A.R. 4-13-25 through K.A.R. 4-13-25k shall be conducted in accordance with the provisions of the Kansas administrative procedures act, K.S.A. 77-501 et seq. and amendments thereto. (Authorized by K.S.A. 2009 Supp. 2-2449 and K.S.A. 2-2467a; implementing K.S.A. 2-2440e, K.S.A. 2009 Supp. 2-2449, K.S.A. 2-2453, 2-2454, and 2-2467a; effective Dec. 27, 2002; amended Sept. 3, 2010.)

K.A.R. 4-13-25m. Change in owner or operator of bulk pesticide storage facility; reporting requirements. (a) If the owner or operator of a bulk pesticide storage facility changes, the new owner or operator shall notify the secretary of the change within 30 days after the effective date of the change, on a form prescribed by the secretary.

(b) The new owner or operator shall meet one of the following requirements:

(1) Submit to the secretary the diagram, plans, and specifications of the bulk pesticide storage facility required by K.A.R. 4-13-25h; or

(2)(A) State on the notification form that the owner or operator has reviewed the existing diagrams, plans, and specifications maintained by the secretary;

(B) certify that the bulk pesticide storage facility remains consistent with those existing diagrams, plans, and specifications; and

(C) certify that the bulk pesticide storage facility has been constructed, remodeled, or converted and is maintained and operated in accordance with K.A.R. 4-13-25 through K.A.R. 4-13-25k. (Authorized by and implementing K.S.A. 2-2467a; effective Sept. 3, 2010.)

K.A.R. 4-13-26. Preconstruction application of pesticide for termite control. In addition to the requirements of the label, each preconstruction application of pesticide for the control of termites shall consist of establishing both horizontal and vertical chemical barriers, as specified in this regulation.

(a) Horizontal chemical barriers shall be established in areas intended to be covered, including the soil beneath slab floors and porches, footing trenches for monolithic slabs, and the soil beneath stairs.

(b) Vertical chemical barriers shall be established in the soil around the base of foundations, plumbing fixtures, foundation walls, support piers, and voids in masonry, and any other critical areas where structural components extend below grade. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2471; effective March 26, 1990; amended July 18, 2003.)

K.A.R. 4-13-27. Certificate of liability insurance. Each applicant for a pesticide business license shall provide the secretary with a certificate of liability insurance which shall contain the following information:

- (a) the name of the insured pesticide business licensee;
- (b) the name of the insurance company which issued the policy;
- (c) the effective date of the policy;
- (d) the expiration date of the policy; and
- (e) the policy number.

If a surety bond is furnished in lieu of a certificate of liability insurance, the bond shall be executed on a form provided by the secretary and shall comply with the provisions of K.A.R. 4-13-8. (Authorized by K.S.A. 1988 Supp. 2-2467a as amended by L. 1989, Ch. 6, §16; implementing K.S.A. 2-2448 as amended by L. 1989, Ch. 6, §17; effective March 26, 1990.)

K.A.R. 4-13-28. Target pests which are not specified on the pesticide's label or labeling. Any pesticide may be applied for the purpose of controlling a pest which is not specified on the pesticide's label or labeling provided that: (a)(1) the pesticide's label or labeling authorizes application of the pesticide to the same crop, animal or site requiring application;

(2) the pest to be controlled belongs to the same general group of pests intended to be controlled by the pesticide to be applied;

(3) the pesticide's label or labeling does not specifically prohibit its application to the target pest to be controlled, or to the crop, animal or site to which the pesticide is to be applied; and

(4) the application of the pesticide to the target pest, or to the crop, animal or site, has not been prohibited by rules and regulations promulgated by the secretary.

(b) Each pesticide which is applied in accordance with the provisions of subsection (a) of this regulation shall be deemed not to cause any unreasonable adverse effects on the environment, nor to endanger the health, safety or welfare of the citizens of this state. (Authorized by K.S.A. 1990 Supp. 2-2467a; implementing K.S.A. 1990 Supp. 2-2470 and 2-2471; effective Oct. 21, 1991.)

K.A.R. 4-13-29. General use pesticides for household application or use for the purpose of pesticide dealer registrations. General use pesticide products sold for household application or use shall include only those ready-to-use general use pesticide products which:

(a) are to be applied undiluted, in accordance with use instructions shown on the pesticide's label; and

(b) are to be applied by homeowners or occupants to control pests in and around the family dwelling and associated structures. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 1985 Supp. 2-2469; effective May 1, 1987.)

K.A.R. 4-13-30. Dealer recordkeeping requirements. (a) Each pesticide dealer shall maintain records of all restricted-use pesticide products sold or otherwise conveyed. These records shall be made available during reasonable business hours to the secretary or the secretary's authorized representative for purposes of inspection and copying. Each record required by this regulation shall be kept for at least two years after the date of the sale or conveyance.

(b) The records specified in subsection (a) shall contain the following information:

(1) The name of each person to whom the restricted-use pesticide product has been sold or conveyed, as verified by the person's presentation of a federal or state government-issued identification card;

(2) the address of either the residence or principal place of business of each person to whom the restricted-use pesticide product has been sold or conveyed;

(3) the name and address of either the residence or principal place of business of the individual to whom the restricted-use pesticide product has been delivered or conveyed, if different from the purchaser;

(4) the certification number of the applicator's certificate;

(5) the name of the state issuing the certificate;

(6) the expiration date of the certificate;

(7) if the applicator is a certified commercial applicator of pesticides, then, if applicable, the categories and subcategories in which the applicator is certified;

(8) the registered name of the restricted-use pesticide product, the EPA registration number of the restricted-use pesticide product, and, if applicable, the "special local need" state registration number of the restricted-use pesticide product;

(9) the quantity of the restricted-use pesticide product sold or conveyed; and

(10) the date of the transaction.

(c) If the pesticide dealer makes a restricted-use pesticide product available to an uncertified person for use by a certified applicator, then the following records shall be kept in addition to those required in subsection (a):

(1) The name of the uncertified person to whom the restricted-use pesticide product has been made available, as verified by the uncertified person's presentation of a federal or state government-issued identification card;

(2) the address of either the residence or principal place of business of the uncertified person to whom the restricted-use pesticide product has been made available;

(3) the name of the certified applicator who will use the restricted-use pesticide product; and

(4) the address of either the residence or principal place of business of the certified applicator who will use the restricted-use pesticide product.

(d) Each pesticide dealer shall submit an annual report for each restricted-use pesticide product that the dealer has sold or otherwise conveyed. The report shall include the following:

(1) The registered name of the restricted-use pesticide product, the EPA registration number of the restricted-use pesticide product, and, if applicable, the "special local need" state registration number of the restricted-use pesticide product; and

(2) the quantity of the restricted-use pesticide product sold or otherwise conveyed.

(Authorized by and implementing K.S.A. 2-2467a; effective, T-86-27, Aug. 19, 1985; effective May 1, 1986; amended May 1, 1987; amended Feb. 5, 2010.)

K.A.R. 4-13-31. Certificates of registration. Each pesticide dealer shall display that dealer's current certificate of registration in a prominent location which can be seen by the general public.

(Authorized by K.S.A. 2-2467a; implementing L. 1985, Ch. 12, section 2; effective, T-86-27, Aug. 19, 1985; effective May 1, 1986.)

K.A.R. 4-13-32. Report of address change by pesticide dealer. Each pesticide dealer shall notify the secretary of any change in its business address or business name by the tenth day of the month following the month in which the change occurred. (Authorized by K.S.A. 2-2467a; implementing L. 1985, Ch. 12, section 2; effective, T-86-27, Aug. 19, 1985; effective May 1, 1986.)

K.A.R. 4-13-33. Pest control technician registration and renewal fees. The application fee for a pest control technician registration or for the renewal of a pest control technician registration shall be \$40.00. Each fee paid by the applicant pursuant to K.A.R. 4-13-9 shall be applied toward payment of the fee required by this regulation. This regulation shall apply to all pest control technician registrations, or renewals of these registrations, that will be effective through June 30, 2015, regardless of when the department receives the application. The \$40.00 pest control technician registration fee shall revert to \$25.00 on and after July 1, 2015, unless this date is modified by statute. (Authorized by K.S.A. 2008 Supp. 2-2440b, as amended by L. 2009, Ch. 128, §13, and K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2440b, as amended by L. 2009, Ch. 128, §13; effective, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended Feb. 5, 2010.)

K.A.R. 4-13-34. Verification of training of registered pest control technicians. (a) Each pesticide business licensee who applies pesticides or causes pesticides to be applied for the control of wood destroying pests, structural pests, ornamental pests, turf pests, interior landscape pests, or any combination of these pests shall maintain records to verify that each registered pest control technician employed by such business licensee has received the required training in each appropriate category of pest control. These training records shall contain the following information for each training session:

- (a) The typed or printed name of the trainee;
- (b) the subject matter covered;
- (c) the type of training, classroom or on-the-job;
- (d) the date on which the training occurred;
- (e) the duration of the training in hours;
- (f) the signature of the trainee; and

(g) the signature of the authorized officer or representative of the pesticide business licensee who administered the training.

(b) This regulation shall become in force and effect from and after January 1, 1989. (Authorized by K.S.A. 1987 Supp. 2-2467a; implementing K.S.A. 1987 Supp. 2-2440c as amended by L. 1988, ch. 7, § 4; effective, T-88-46, Nov. 10, 1987; effective May 1, 1988; amended Jan. 1, 1989.)

K.A.R. 4-13-35. Registered pest control technician identification cards. (a) The secretary shall issue an identification card to each registered pest control technician upon satisfactory completion of the requirements for registration. This identification card shall show the registered technician's typed name and signature, the category or subcategory for which the registration has been issued, the name of the business licensee employing the registered technician, the date on which the identification card was issued, and the expiration date of the registration. The registered pest control technician shall have this identification card in the technician's possession when applying any pesticide for the control of wood destroying pests, structural pests, ornamental pests, turf pests, interior landscape pests, or any combination of these pests or when supervising the application of any general use pesticide. The

technician shall produce this identification card when requested to do so by any customer, law enforcement official, the secretary or any authorized representative of the secretary. This regulation does not authorize any registered pest control technician to supervise the use of, or to apply, any restricted use pesticide unless the application is supervised by a commercial applicator who is certified to apply restricted use pesticides for the control of pests in the category or subcategory for which the pesticide application is made.

(b) This regulation shall be in force and effect from and after January 1, 1989. (Authorized by K.S.A. 1987 Supp. 2-2467a; implementing K.S.A. 1987 Supp. 2-2440b as amended by L. 1988, Ch. 7, § 3; effective, T-88-46, Nov. 10, 1987; effective May 1, 1988; amended Jan. 1, 1989.)

K.A.R. 4-13-36. Training of registered pest control technicians in wood destroying pest control and structural pest control. (a) All applicants for pest control technician registration in wood destroying pest control or structural pest control shall have completed a minimum of 40 hours of verifiable training, 30 hours of which must consist of supervised application of pesticides in and around structures, and 10 hours of which must be classroom instruction.

(b) Classroom instruction shall include the following:

(1) The proper use and maintenance of equipment, including calibration, "crack and crevice" and "spot" application, and other application techniques;

(2) The potential dangers involved in applying the pesticides, including:

(A) hazards to the applicator resulting from mixing, loading and applying pesticides, poisoning prevention, symptoms and first aid for pesticide poisoning;

(B) hazards to the occupants of the structures where pesticides are applied with particular emphasis on children, the aged and infirm;

(C) procedures for preventing pesticide contamination of food, groundwater, wells and cisterns, and the air within the structure being treated;

(D) label review and basic information about each pesticide used for control of wood destroying pests or structural pests, including common names of the pesticides, where and how each pesticide may be applied, and the kinds of pests controlled;

(E) basic information about prevention and cleanup of spills; and

(F) the use of non-chemical means to control wood destroying and structural pests.

(3) calculating the concentration of pesticides to be used and the quantities of diluted pesticide necessary to complete a particular treatment;

(4) identification of common pests to be controlled and damages caused by such pests as subterranean termites, carpenter ants, wood decaying fungi, German, American and oriental cockroaches, silverfish, fleas, ticks, spiders, pantry pests, house mice, field mice, and Norway rats, the basic characteristics and habits of these pests and conditions that favor structural infestation by these pests;

(5) protective clothing and equipment, including the use and maintenance of rubber gloves and respirators;

(6) general precautions to be followed in the storage and disposal of pesticide containers and rinsate, as well as the cleaning and decontamination of equipment;

(7) applicable state and federal pesticide laws and regulations germane to the work of a technician, including but not limited to following label directions, direct supervision, information required on statements of services, and termite control application procedures; and

(8) basic information regarding elements of construction likely to be encountered including, heating and plumbing systems and such terms as footing, foundation wall, wall voids, sill plate, joists, subfloor, and slab-on-grade. (Authorized by K.S.A. 2-2467a, implementing K.S.A. 2-2440a; effective, T-88-46, Nov. 10, 1987; effective May 1, 1988; amended Jan. 1, 1989; amended Jan. 25, 1993.)

K.A.R. 4-13-37. Renewal of pest control technician registration. A pest control technician's registration may be renewed for a succeeding one-year period by paying the fees prescribed by law, completing the renewal application form provided by the secretary, and completing successfully six hours of classroom training in approved subjects during the effective period of the technician's registration. This training may be conducted by the pesticide business licensee, or in the alternative, the pest control technician may attend a training course approved by the secretary. The pesticide business licensee shall verify and maintain records to support the verification that each pest control technician it employs has satisfactorily completed the training required for renewal. (Authorized by K.S.A. 2-2467a, as amended by L. 1987, Ch. 12, § 5; implementing L. 1987, Ch. 12, § 4; effective, T-88-46, Nov. 10, 1987; effective May 1, 1988.)

K.A.R. 4-13-38. Training of registered pest control technicians in ornamental pest control, turf pest control and interior landscape pest control. (a) All applicants for pest control technician registration in ornamental pest control, turf pest control or interior landscape pest control shall have completed a minimum of 40 hours of verifiable training, 30 hours of which must consist of supervised application of pesticides for the control of ornamental pests, turf pests or interior landscape pests as appropriate, and 10 hours of which must be classroom instruction.

(b) Classroom instruction shall include the following:

(1) The proper use and maintenance of equipment, including calibration.

(2) the hazards that may be involved in applying the pesticides, including:

(A) The effect of drift of the pesticides on adjacent and nearby property and on nontarget organisms, and methods for preventing drift;

(B) the proper weather conditions for the application of pesticides and the precautions to be taken;

(C) procedures for preventing pesticide contamination of groundwater, wells and cisterns, surface water, soil, or the air within a structure;

(D) the effect of the pesticides on humans, plants or animals in the area, including the possibility of damage to plants or animals or the possibility of undesirable or illegal residues resulting on them;

(E) the effect of the application of pesticides on wildlife in the area, including aquatic life;

(F) the possibility of contamination of water or injury to persons, pets or desirable vegetation;

(G) hazards to the applicator resulting from mixing, loading and applying pesticides;

(H) poisoning prevention, symptoms and first aid for pesticide poisoning;

(I) label review and basic information about each pesticide used, including common names of the pesticides, where and how each pesticide may be applied, and the kinds of pests controlled;

(J) basic information about prevention and cleanup of spills; and

(K) basic information about beneficial insects and the use of non-chemical means to control ornamental pests, turf pests and interior landscape pests;

(3) calculating the concentration of pesticides to be used and the quantities of diluted pesticide necessary to complete a particular treatment.

(4) identification of common pests to be controlled and damages caused by such pests, as listed below, and the basic characteristics and habits of these pests.

(A) For registered pest control technicians in the field of ornamental pest control, common pests shall include but not be limited to: bagworms, cankerworms, elm leaf beetles, aphids, spider mites, galls and gall-producing insects and diseases, flatheaded and roundheaded wood boring beetles, scale insects, cedar-apple rust, anthracnose and powdery mildew.

(B) For registered pest control technicians in the field of turf pest control, common pests shall include but not be limited to: sod webworms, chinch bugs, white grubs, sowbugs, broadleaf weeds such as dandelion, chickweed, and henbit, grasses such as crabgrass, foxtail and annual bluegrass, Helminthosporium leaf spot, Pythium and Fusarium blights, moles and gophers.

(C) For registered pest control technicians in the field of interior landscape control, common pests shall include but not be limited to: whiteflies, mealybugs, scale insects, spider mites, aphids, fungus gnats, snails and slugs, ants, sowbugs, thrips, damping-off, botrytis blight and powdery mildew;

(5) protective clothing and equipment, including the use and maintenance of rubber gloves and boots, rainsuits and respirators.

(6) general precautions to be followed in the storage and disposal of pesticide containers and rinsate, as well as the cleaning and decontamination of equipment.

(7) applicable state and federal pesticide laws and regulations germane to the work of a technician, including following label directions, direct supervision and information required on statements of services. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440a; effective Jan. 1, 1989; amended Jan. 25, 1993.)

K.A.R. 4-13-40. Types of hearings. (a) A conference adjudicative hearing may be used for the following types of action:

(1) Suspension or revocation of a pesticide business license for the licensee's failure to maintain acceptable insurance or bond continuously during the licensing period as required by K.S.A. 2-2448, and amendments thereto;

(2) suspension or revocation of the pesticide business license or governmental registration for the licensee's failure to employ a certified commercial applicator for each category of business operations in which a license has been issued;

(3) suspension of a pesticide business license, governmental registration, or applicator's certificate, whether commercial or private, that has been issued when fees were paid by an insufficient fund check;

(4) suspension or revocation of a pesticide business license, governmental agency registration, or any certificate for multiple or repeated violations of the Kansas pesticide law or of the implementing regulations, if no material issue of fact is involved; and

(5) any other instances designated in K.S.A. 77-533, and amendments thereto.

Nothing in this subsection shall prohibit the conversion of another type of hearing to a conference adjudicative hearing. Conversion procedures shall conform with K.S.A. 77-506, and amendments thereto.

(b) The summary adjudicative hearing may be used for the following types of action:

(1) A reprimand, warning, or disciplinary report pertaining to a violation of the Kansas pesticide law or any implementing regulation;

(2) any matter that can be resolved solely on the basis of inspections, examinations, or tests made by the agency or its personnel; and

(3) assessment of civil penalties pertaining to a violation of the Kansas pesticide law or any implementing regulation.

All other hearings, except emergency adjudicative hearings or hearings that have been initiated as or converted to conference adjudicative hearings or summary adjudicative hearings, shall be formal adjudicative hearings as defined in the Kansas administrative procedures act. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2449 and 2-2451; effective May 1, 1985; amended July 18, 2008.)

K.A.R. 4-13-60. Civil penalty; order. Each order assessing a civil penalty shall include the following:

- (a) A statement reciting each subsection of the act authorizing the assessment of civil penalty;
- (b) a specific reference to each provision of the act or implementing regulation that the respondent is alleged to have violated;
- (c) a concise statement of the factual basis for each violation alleged;
- (d) the amount of the civil penalty to be assessed; and
- (e) the notice of the respondent's right to request a hearing. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e; effective Jan. 1, 1989; amended Aug. 22, 1994; amended July 18, 2008.)

K.A.R. 4-13-62. Amount of civil penalty. (a) A separate civil penalty shall be assessed for each violation of the pesticide law that results from each independent act or failure to act by any pesticide business licensee or pesticide dealer, or any agent or employee of a pesticide business licensee or pesticide dealer. In determining whether a given violation is independent of and substantially distinguishable from any other violation for the purpose of assessing separate civil penalties, consideration shall be given to whether each violation requires an element of proof not required by another violation. If several violations require the same elements of proof and are not distinguishable, the assessment of separate civil penalties shall be within the discretion of the secretary or the secretary's authorized representative.

(b) The amount of each civil penalty shall be within the following ranges:

(1) For each violation of K.S.A. 2-2453(a) or (b) and amendments thereto, the civil penalty shall be not less than \$100 and not more than \$5,000.

(2) For each violation of K.S.A. 2-2454(b), (m), (o), (r), (s), or (t) and amendments thereto, the civil penalty shall be not less than \$100 and not more than \$5,000.

(3) For each violation of K.S.A. 2-2454, and amendments thereto, not covered in paragraph (b)(2), the civil penalty shall be not less than \$100 and not more than \$1,000.

(4) For each violation of K.S.A. 2-2453(c), and amendments thereto, not already covered in paragraph (b) (1), (2), or (3), the civil penalty shall be not less than \$100 and not more than \$1,000.

(c) For each subsequent occurrence of a violation for which a civil penalty has been assessed within a three-year period, the civil penalty assessed for the subsequent violation shall be the maximum amount for the category listed. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e, as amended by L. 2009, Ch. 128, §15; effective Jan. 1, 1989; amended Jan. 25, 1993; amended Feb. 5, 2010.)

K.A.R. 4-13-63. Criteria to determine dollar amount of proposed civil penalty.

In determining the amount of any proposed civil penalty, the gravity of the violation shall be considered by the secretary or the secretary's designee. Factors to be considered shall include:

- (a) The potential of the act to injure humans, pets, domestic animals, wildlife or the environment;

- (b) the severity of potential injuries;
- (c) the extent to which injury actually occurred;
- (d) the respondent's history of compliance with state and federal pesticide laws and regulations promulgated thereunder;
- (e) any action taken by respondent to remedy the specific violation or to mitigate any adverse health effects or environmental effects which were the result of the violation; and
- (f) whether or not the violation involved any misrepresentation or fraud. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e; effective Jan. 1, 1989; amended Jan. 25, 1993.)

K.A.R. 4-13-64. Informal settlement. (a) Any respondent may request a settlement conference if the respondent timely filed a written request for hearing. The request may be made before the prehearing conference.

(b) If a settlement is reached, the parties shall reduce the settlement to writing and present the proposed written consent agreement to the secretary. The consent agreement shall state that, for the purpose of the proceeding, the following conditions are met:

(1) The respondent admits the jurisdictional allegations and admits the facts stipulated in the consent agreement.

(2) The respondent neither admits nor denies the specific violations contained in the order.

(3) The respondent consents to the assessment of a stated civil penalty.

The consent agreement shall include all terms of the agreement and shall be signed by all parties or their counsel. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e; effective Jan. 1, 1989; amended Aug. 22, 1994; amended July 18, 2008.)

K.A.R. 4-13-65. Adjusting the amount of the civil penalty. (a) Each respondent shall present all evidence on the issue of adjustment of the civil penalty at the settlement conference. This evidence may include mitigating factors or new evidence not previously known to the agency when the order was issued.

(b) Upon presentation by the respondent of new evidence establishing facts and circumstances that were unknown to the secretary when the order was issued and that relate to the gravity of the violation, the civil penalty may be reduced.

If additional facts establish a respondent did not commit a violation, the order shall be amended or vacated.

(c) The burden shall be on the respondent to present evidence of any mitigating factors to support any requested reduction in the amount of the civil penalty. The amount of the civil penalty may be reduced if the reduction serves the public interest.

(d) The amount of a civil penalty shall not be reduced to less than \$100 per offense.

(1) Whether or not a civil penalty is reduced shall be within the sole discretion of the secretary or the secretary's designee.

(2) Reductions shall not occur unless evidence of mitigating factors has been presented by a respondent. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e; effective Jan. 1, 1989; amended Aug. 22, 1994; amended July 18, 2008.)

Attachment 2-B2: Kansas Agricultural Chemical Act of 1947, K.S.A. 2-2201 *et seq.*, and Associated Regulations

The following copy of selected statutes and regulations is being made available by the Kansas Department of Agriculture for the convenience of the public and is meant to be used only as a reference. While the Kansas Department of Agriculture has made every effort to accurately reproduce these statutes and regulations, they are not the official statutes and regulations of the State. The Kansas Statutes Annotated (K.S.A.), published by the Revisor of Kansas Statutes, and the Kansas Administrative Regulations (K.A.R.), published by the Secretary of State should be consulted for the text of the official statutes and administrative regulations of the State.

Kansas Statutes Annotated Kansas Agricultural Chemical Act of 1947

K.S.A. 2-2201. Title. This act may be cited as the "agricultural chemical act of 1947."

History: L. 1947, ch. 10, § 1; June 30.

K.S.A. 2-2202. Definitions. For the purpose of this act: (a) The terms "**agricultural chemical**" and "**pesticide**" shall be construed as synonymous terms, shall apply to substances used for both agricultural and non-agricultural uses and shall mean and include any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling, or mitigating any insects, rodents, predatory animals, fungi, weeds, nematodes and other forms of plant or animal life or viruses, which the secretary shall declare to be a pest, and any substance labeled, designed or intended for use as a defoliant, and any substance or mixture of substances, labeled, designed or intended for use as a plant regulator, or desiccant. Viruses on or in living man or other animals are specifically excepted and excluded from this definition. Drugs recognized by the United States pharmacopoeia or the national formulary, the label of which bears the descriptive abbreviations for these compendia, U.S.P. or N.F. as the case may be, are specifically excepted and excluded from this definition.

(b) The term "**insecticide**" means and includes any substance or mixture of substances, labeled, designed or intended for use in preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

(c) The term "**fungicide**" means and includes any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any fungi.

(d) The term "**rodenticide**" means and includes any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating rodents or any other vertebrate animals which the secretary shall declare to be a pest.

(e) The term "**herbicide**" means and includes any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any weed.

(f) The term "**nematocide**" means any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any nematodes.

(g) The term "**defoliant**" means and includes any substance or mixture of substances, labeled, designed, or intended for use for defoliating plants, preparatory to harvest for purpose of obtaining early or controlled maturity.

(h) The term "**plant regulator**" means any substance or mixture of substances, labeled, designed, or intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(i) The term "**desiccant**" means any substance or mixture of substances labeled, designed, or intended for artificially accelerating the drying of plant tissues.

(j) The term "**insect**" means a small invertebrate animal generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(k) The term "**fungi**" means and includes any nonchlorophyll-bearing thallophytes (any nonchlorophyll-bearing plants of a lower order than mosses and liverworts) and includes rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

(l) The term "**weed**" means and includes any plant which grows where not wanted.

(m) The term "**nematode**" means invertebrate animals of the phylum nemathelminthes and class Nemotoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

(n) The term "**fumigant**" means any substance or mixture of substances which emits or liberates a gas or gases, which are used in controlling, destroying, or mitigating insects or rodents and which are usually dangerous to man and other animals.

(o) The term "**ingredient statement**" means a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the agricultural chemical; if the agricultural chemical contains arsenic in any form, the statement shall include the percentages of total and water soluble arsenic, each calculated as elemental arsenic. If the agricultural chemical is not highly toxic to man, and if the agricultural chemical does not contain arsenic in any form, and if the agricultural chemical is not a fumigant, and if a statement of the total percentage of each active ingredient is filed with the secretary, then the term "**ingredient statement**" shall be construed to mean a statement of the name of each active ingredient listed in the order of greatest percentage of each present in the product, together with the name and total percentage of the inert ingredients, if any there be in the agricultural chemical.

(p) The term "**active ingredient**" means

(1) in the case of any agricultural chemical other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds or other pests;

(2) in the case of a plant regulator an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(q) The term "**inert ingredient**" means an ingredient which is not an active ingredient.

(r) The term "**antidote**" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(s) The term "**person**" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

(t) The term "**secretary**" means the secretary of agriculture.

(u) The term "**registrant**" means the person registering any agricultural chemical pursuant to the provisions of this act.

(v) The term "**label**" means the written, printed, or graphic matter on, or attached to, the agricultural chemical or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be.

(w) The term "**labeling**" means all labels and other written, printed or graphic matter:

(1) Upon the agricultural chemical or any of its containers or wrappers;

(2) accompanying the agricultural chemical at any time;

(3) to which reference is made on the label or in literature accompanying the agricultural chemical, except when accurate, nonmisleading reference is made to current official publications of the United States departments of agriculture, interior, health and human services, environmental protection agency and state and federal experimental stations and extension services.

(x) The term "**adulterated**" shall apply to any agricultural chemical:

(1) The strength or purity of which falls below the professed standard or quality as expressed on labeling or under which it is sold;

(2) if any substance has been substituted wholly or in part for the article;

(3) if any valuable constituent of the article has been wholly or in part abstracted.

(y) The term "**misbranded**" shall apply:

(1) To any agricultural chemical if its labeling bears any statement, design, or graphic representation relative thereto, or to its ingredients, which is false or misleading in any particular:

(2) to any agricultural chemical:

(a) Which is an imitation of or is offered for sale under the name of another agricultural chemical;

(b) the labeling of which bears any reference to registration under this act;

(c) the labeling accompanying which does not contain instructions for use which are necessary for effective results; and which, if complied with, are adequate for the protection of the public;

(d) if the label of which does not contain a warning or caution statement which, if complied with, is adequate to prevent injury to living man and other vertebrate animals or does not bear a hazard or cautionary statement sufficient to prevent harm to the environment, especially the waters of the state;

(e) the label of which does not bear an ingredient statement on the immediate container;

(f) the label of which does not bear an ingredient statement on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read;

(g) upon which there appears any word, statement, or other information required by or under the authority of this act to appear on the labeling, which is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling)

and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and

(h) the label of which does not bear an EPA registration number, unless exempted from the requirement under the provisions of FIFRA.

(3) To any insecticide, fungicide, nematocide, or herbicide which when used as directed, or when used in accordance with commonly recognized practices:

(a) Shall be injurious to living man or other vertebrate animals, to which it is applied, or to the person applying such agricultural chemical;

(b) shall be injurious to the environment or to vegetation, other than weeds, to which it is applied, or to the person applying such agricultural chemical. Physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

(z) The term **“emergency exemption”** shall mean an authorization to use a pesticide product, under emergency conditions, in a manner other than as stated on the product label as registered under section 3 of FIFRA which must be obtained by the secretary.

(aa) The term **“restricted use”** shall mean and include any pesticide, the use of which is either registered as restricted use by the secretary or labeled as restricted-use by a federal agency responsible for making the classification or designation.

(bb) The term **“special local need registration”** shall mean a registration under section 24 of FIFRA authorized by the administrator of the EPA when certain conditions are met that indicate that there is a specific and special need within the state.

(cc) The term **“suspended pesticide”** shall mean any product whose registration is suspended under the provisions of this act or of FIFRA which would immediately stop the distribution or use, or both, of the product.

(dd) The term **“distribute”** shall mean to sell, offer for sale, hold for sale, hold for shipment, ship, deliver for shipment or release for shipment. The term does not include the holding or application of pesticides or the dilution of pesticide products by commercial pesticide applicators for the control of pests without delivering any unapplied pesticide to any customer of such applicators.

(ee) **“EPA”** shall mean the United States environmental protection agency.

(ff) **“FIFRA”** shall mean the federal insecticide, fungicide and rodenticide act (7 U.S.C. 136 et seq. (1996)) and regulations adopted pursuant thereto.

History: L. 1947, ch. 10, § 2; L. 1963, ch. 9, § 1; L. 2004, ch. 101, § 42; L. 2009, ch. 128, § 2; July 1.

K.S.A. 2-2203. Prohibited acts. (a) It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

(1) Any agricultural chemical which has not been registered pursuant to the provisions of K.S.A. 2-2204, and amendments thereto;

(2) any agricultural chemical, if any of the claims made for it, or if any of the directions for its use, differ in substance from the representations made in connection with its registration;

(3) any agricultural chemical if the composition thereof differs from its composition as represented in connection with its registration, unless within the discretion of the secretary, or an authorized representative of the secretary, a change in the labeling or formula of an agricultural chemical within a registration period, has been authorized, without requiring a reregistration of the product.

(4) Any agricultural chemical, unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing the following:

(a) The name and address of the manufacturer, registrant, or person for whom manufactured;

(b) the name, brand, or trademark of said article and

(c) the minimum net weight or measure of the contents except that herbicides shall be labeled to state the net weight of contents.

(5) Any agricultural chemical which contains any substance or substances in quantities highly toxic to man, determined as provided in K.S.A. 2-2205, and amendments thereto, unless the label shall bear, in addition to any other matter required by this act:

(a) The skull and crossbones;

(b) the word "poison" prominently, in red, on a background of distinctly contrasting color; and

(c) a statement of an antidote for the pesticide.

(6) Any agricultural chemical which is adulterated or misbranded.

(b) It shall be unlawful:

(1) For any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this act, or by regulations promulgated hereunder, or to add any substance to, or take any substance from, an agricultural chemical in any manner which may defeat the purposes of this act.

(2) For any person to use for his or her own advantage or to reveal, other than to the secretary or an authorized representative of the secretary, or proper officials or employees of the state or to the courts of this state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of K.S.A. 2-2204, and amendments thereto.

History: L. 1947, ch. 10, § 3; L. 2009, ch. 128, § 3; July 1.

K.S.A. 2-2204. Registration; renewal; chemicals subject to federal registration may be exempted; fees and charges; reduction; cancellation of registration upon notice. (a) Every agricultural chemical which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered by the secretary. The secretary shall have the authority to classify or designate as restricted-use any pesticide registered for sale, use or distribution in the state of Kansas, according to rules and regulations promulgated by the secretary. The secretary may adopt rules and regulations to allow products to be registered for a period not to exceed three years. All registration of products shall expire on December 31 of the year the registration is set to expire, unless such registration shall be renewed, in which event expiration date shall be extended for each year of renewal registration, or until otherwise terminated. Products which have the same formula, and are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same agricultural chemical may be registered as a single product and additional names and labels shall be added by supplement statements during the current period of registration. Within the discretion of the secretary, or an authorized representative of the secretary, a change in the labeling or formulas of an agricultural chemical may be made within the current period of registration without requiring a reregistration of the product. Any agricultural chemical imported into this state which is subject to the provisions of any federal act providing for the registration and which has been duly

registered under the provisions of such federal act, in the discretion of the secretary, may be exempted from registration under this act when such agricultural chemical is sold or distributed in the unbroken immediate container in which such agricultural chemical was originally shipped.

(b) The registrant shall file with the secretary, a statement including: (1) The name and address of the registrant and the name and address of the person whose name will appear on the label if other than the registrant; (2) the name of the agricultural chemical; (3) a complete copy of the labeling accompanying the agricultural chemical and a statement of all claims made and to be made for it and a statement of directions for use; and (4) if requested by the secretary, or an authorized representative of the secretary, a full description of the tests made and the results thereof upon which the claims are based.

(c) The secretary may require the registrant to submit a copy of the product label registered by the EPA under the provisions of FIFRA.

(d) Any time the registrant modifies the label, the modified label shall be submitted to the secretary for review and approval prior to implementing the new label in Kansas.

(e) On the date of registration, the registrant shall pay a fee fixed by rules and regulations adopted by the secretary of agriculture. Such fee shall equal an amount per registered agricultural chemical, not to exceed \$150 per year. Such fee shall be deposited in the state treasury and credited as follows: (1) An amount equal to \$100 for each year of registration shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto; and (2) the remainder shall be credited to the agricultural chemical fee fund to be used for carrying out the provisions of this act. The annual fee for each agricultural chemical registered which is in effect on the day preceding the effective date of this act shall continue in effect until the secretary of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. The secretary of agriculture shall reduce the fee imposed by this subsection by adopting rules and regulations whenever the secretary determines that the fee is yielding more revenue than is required for the purposes to which such fee is devoted by law, but not for less than one year. In the event that the secretary, after reducing such fee, finds that sufficient revenues are not being produced by such reduced fee, the secretary may increase the fee by adopting rules and regulations under this subsection, to an amount which, in the judgment of the secretary, will produce sufficient revenues for the purposes as provided in this section, but not exceeding the maximum amount of the fee imposed by this subsection.

(f) The secretary, or an authorized representative of the secretary, whenever it is deemed essential in the administration of this act, may require the submission of the complete formula or any other data in support of the registration for any pesticide. The complete formula and any other trade secrets submitted to support the registration application shall be considered as confidential. If it appears to the secretary, or an authorized representative of the secretary, that the composition of the product is such as to warrant the proposed claims for the product and if the product and its labeling and other material required to be submitted comply with the requirements of this act, the secretary shall register the product.

(g) If it does not appear to the secretary, or an authorized representative of the secretary, that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted do not comply with the provisions of this act, the secretary shall notify the registrant of the manner in which the product, labeling, or other material required to be submitted fail to comply with the act and rules and regulations adopted pursuant thereto so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the

registrant does not make the required changes within 30 days, the secretary may deny registration of the product. In addition, the secretary may deny registration of a product if the application for registration fails to comply with this act or any rule or regulation adopted pursuant thereto. If the secretary denies a registration, the registrant may request a hearing in accordance with the provisions of the Kansas administrative procedure act.

(h) Any pesticide registration canceled or suspended under the provisions of FIFRA shall be considered to be canceled or suspended under provisions of the agricultural chemical act of 1947, unless such cancellation is due to the nonpayment of registration fees required under FIFRA.

(i) If the secretary determines that a registered product fails to meet the claims made on its label, the secretary may suspend or revoke the product registration after a hearing in accordance with the provisions of the Kansas administrative procedure act. In addition, if the secretary determines that a registered product or its labeling fails to comply with this act, or a rule or regulation adopted pursuant to this act, the secretary may suspend or revoke the product registration after a hearing in accordance with the provisions of the Kansas administrative procedure act.

(j) In order to protect the public, the secretary, or a duly authorized representative of the secretary, on the secretary's own motion, may at any time, after written notice to the registrant, suspend or revoke the registration of an agricultural chemical. Any person so notified shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act with regard to the secretary's contemplated action, before any registration is suspended or revoked.

(k) Notwithstanding any other provisions of this act, registration is not required in the case of an agricultural chemical shipped from one plant within this state to another plant within this state operated by the same person.

(l) Any information required to be filed pursuant to this section, may be filed electronically pursuant to rules and regulations promulgated by the secretary.

History: L. 1947, ch. 10, § 4; L. 1951, ch. 13, § 1; L. 1982, ch. 4, § 7; L. 1987, ch. 12, § 8; L. 1988, ch. 356, § 31; L. 1989, ch. 186, § 28; L. 2002, ch. 181, § 2; L. 2004, ch. 85, § 2; L. 2008, ch. 93, § 2; L. 2009, ch. 128, § 4; L. 2017, ch. 86, § 2; July 1

K.S.A. 2-2205. Determinations after hearings; rules and regulations; uniformity between states and federal government. (a) The secretary is authorized, after opportunity for a hearing

(1) to declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles, or substances;

(2) to determine whether agricultural chemicals are highly toxic to man;

(3) to determine standards of coloring or discoloring for agricultural chemicals; and

(4) to subject agricultural chemicals to the requirements of K.S.A. 2-2203 (a)(6) and amendments thereto.

(b) The secretary is authorized, after due public hearing, to make appropriate rules and regulations for carrying out the provisions of this act, including rules and regulations providing for the collection and examination of samples of agricultural chemicals.

(c) In order to avoid confusion endangering the public health and safety resulting from diverse requirements, particularly as to the labeling and coloring of agricultural chemicals and to avoid increased costs to the people of this state due to the necessity of complying with such diverse requirements in the manufacture and sale of such products, it is desirable that there should be uniformity between the requirements of the several states and the federal government relating to such

products. To this end the secretary is authorized, after due public hearing, to adopt regulations, applicable to and in conformity with the primary standards established by this act; or as have or may be prescribed by the EPA with respect to agricultural chemicals or pesticides.

History: L. 1947, ch. 10, § 5; L. 2009, ch. 128, § 5; July 1.

K.S.A. 2-2206. Examinations; prosecutions; stop sale orders; judicial review. (a) The examination of agricultural chemicals shall be made under the direction of the secretary, or an authorized representative of the secretary, for the purpose of determining whether they comply with the requirements of this act. If it appears from such examination that an agricultural chemical fails to comply with the provisions of this act and the secretary, or an authorized representative of the secretary, contemplates instituting criminal proceedings against any person, the secretary or the authorized representative of the secretary shall cause notice to be given to such person. Any person so notified shall be given an opportunity to present such person's views, either orally or in writing, with regard to such contemplated proceedings. If thereafter in the opinion of the secretary, or an authorized representative of the secretary, it appears that the provisions of the act have been violated by such person, then the secretary or an authorized representative of the secretary may refer the facts to the county attorney or district attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of such article. Nothing in this act shall be construed as requiring the secretary or the authorized representative of the secretary to report for prosecution or for the institution of libel proceedings any minor violations of the act whenever the secretary or the authorized representative of the secretary believes that the public interests will be best served by a suitable notice of warning in writing.

(b) It shall be the duty of each county attorney or district attorney to whom any such violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(c) The secretary, or an authorized representative of the secretary, is authorized to give notice of all judgments entered in actions instituted under the authority of this act by publication in such manner as the secretary may prescribe.

(d) The secretary or a duly authorized representative of the secretary, acting as the enforcing officer, may issue and enforce a written or printed stop sale, use or removal order to the owner or custodian of any quantity of an agricultural chemical which the secretary or duly authorized representative determines is adulterated or misbranded, is not registered as required under K.S.A. 2-2204 and amendments thereto, fails to bear on its label the required information, has an altered or defaced label or the pesticide product has pesticide residue on the container or packaging. The stop sale order shall prohibit further sale and movement of such agricultural chemical, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale, use or removal order. Any stop sale, use or removal order issued pursuant to this subsection is subject to review in accordance with the Kansas judicial review act. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the statutes contained in article 22 of chapter 2 of the Kansas Statutes Annotated and amendments thereto

(e) The representative of the secretary may issue a stop sale, use or removal order for any pesticide product held for distribution to any pesticide dealer who has failed to register as a pesticide dealer under the requirements of K.S.A. 2-2469, and amendments thereto.

(f) During reasonable business hours, the secretary or secretary's representative shall have the authority to enter any locations where pesticides, pest control devices or pest control systems are being held for sale and distribution in order to conduct inspections, obtain samples and other evidence, obtain copies of records and otherwise document compliance with the provisions of this act.

History: L. 1947, ch. 10, § 6; L. 1985, ch. 9, § 3; L. 1986, ch. 318, § 13; L. 2009, ch. 128, § 6; L. 2010, ch. 17, § 10; July 1.

K.S.A. 2-2207. Exemptions. (a) The secretary may issue a permit for an experimental use pesticide in lieu of registration, as prescribed by rules and regulations adopted by the secretary.

(b) The penalties provided for violations of subsection (a) of K.S.A. 2-2203 and amendments thereto shall not apply to:

(1) Any carrier while engaged in transporting an agricultural chemical within this state, if such carrier, upon request, permits the secretary or the secretary's designated representative or agent to copy all records showing the transactions in and movement of the products;

(2) public officials of this state and the federal government engaged in the performance of their official duties;

(A) the manufacturer or shipper of an agricultural chemical for experimental use only by or under the supervision of any agency of this state or of the federal government authorized by law to conduct research in the field of agricultural chemicals, or

(B) by others if the agricultural chemical is not sold and if the container thereof is plainly and conspicuously marked "for experimental use only not to be sold," together with the manufacturer's name and address. If a written permit has been obtained from the secretary, or an authorized representative of the secretary, an agricultural chemical may be sold for experiment purposes subject to such restrictions and conditions as may be set forth in the permit.

(c) No article shall be deemed in violation of this act when consigned for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported all of the provisions of this act shall apply.

(d) This act shall not limit or abridge in any manner the right of any pharmacist licensed in the state of Kansas to sell chemicals and drugs in broken packages in compliance with the Kansas pharmacy laws.

(e) Any pesticide product that is permitted for distribution and use under the provisions of an emergency exemption shall be exempt from the requirements for registration of the label allowing for use in an emergency.

(f) Any pesticide product label for which the secretary seeks registration under the provisions for special local need (SLN) registration shall be exempt from the registration fee for the remainder of the first year the SLN is in place. A registration fee in an amount fixed by the secretary shall be required for renewal of the SLN registration.

History: L. 1947, ch. 10, § 7; L. 1986, ch. 231, § 1; L. 2009, ch. 128, § 7; July 1.

K.S.A. 2-2208. Penalties. (a) Any person violating K.S.A. 2-2203 (a) (1) shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars and not more than five hundred dollars.

(b) Any person violating any provisions of this act other than K.S.A. 2-2203 (a) (1) or failing to comply with any of the provisions of this act other than K.S.A. 2-2203 (a)(1) or violating or failing to comply with any rule or regulation adopted under the provisions of this act, shall be guilty of a misdemeanor and

upon conviction shall be fined not more than one hundred dollars for the first offense and upon conviction for a subsequent offense shall be fined not less than one hundred dollars or more than five hundred dollars for each subsequent offense: *Provided*, That any offense committed more than five years after a previous conviction shall be considered a first offense. The registration of the article with reference to which the violation occurred shall terminate automatically upon entry of judgment by the court against the violator. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the secretary, or an authorized representative of the secretary, to comply with all the requirements of this act.

(c) Notwithstanding any other provisions of this section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of K.S.A. 2-2204, he or she shall be fined not more than five hundred dollars or imprisoned for not more than one year or both.

History: L. 1947, ch. 10, § 8; June 30.

K.S.A. 2-2209. Seizures. (a) Any agricultural chemical that is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any court of competent jurisdiction in any county of the state where it may be found and seized for confiscation by process of libel for condemnation if it:

- (1) Is adulterated or misbranded;
- (2) has not been registered under the provisions of K.S.A. 2-2204 and amendments thereto;
- (3) fails to bear on its label the information required by the agricultural chemical act of 1947.

(b) If the article is condemned, after entry of decree, it shall be disposed of by destruction or sale as the court may direct and the proceeds, if such article is sold, less legal costs, shall be paid to the state treasurer. The article shall not be sold contrary to the provisions of the agricultural chemical act of 1947. Upon payment of costs and upon the execution and delivery to the clerk of such court, of a good and sufficient bond to be approved by the judge, conditioned that the article shall not be disposed of unlawfully, the court may direct that such article be delivered to the owner thereof for relabeling or reprocessing as the case may be.

(c) When a decree of condemnation is entered against the article, court costs and fees and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

History: L. 1947, ch. 10, § 9; L. 1992, ch. 314, § 1; L. 2009, ch. 128, § 8; July 1.

K.S.A. 2-2210. Delegation of duties. All authority vested in the secretary by virtue of the provisions of this act may with like force and effect be executed by such employees of the Kansas department of agriculture as the secretary may from time to time designate for said purpose.

History: L. 1947, ch. 10, § 10; L. 2004, ch. 101, § 43; July 1.

K.S.A. 2-2211. Cooperation with other agencies. The secretary is authorized and empowered to cooperate with, and enter into agreements with, any other agency of this state, the United States department of agriculture, and any other state or agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulations.

History: L. 1947, ch. 10, § 11; June 30.

K.S.A. 2-2212. Disposition of moneys received; agricultural chemical fee fund. The secretary shall remit all moneys received by or for the secretary under article 22 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with K.S.A. [75-4215](#), and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agricultural chemical fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

History: L. 1947, ch. 10, § 12; L. 1973, ch. 2, § 7; L. 2001, ch. 5, § 15; L. 2004, ch. 101, § 44; July 1.

K.S.A. 2-2213. Invalidity of part. If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this act and the applicability thereof to other persons and circumstances shall not be affected thereby.

History: L. 1947, ch. 10, § 13; June 30.

K.S.A. 2-2214. Jurisdiction over distribution, sale and transportation. (a) Jurisdiction in all matters pertaining to the distribution, sale and transportation of agricultural chemicals is by this act vested exclusively in the secretary, and an authorized representative of the secretary, except as otherwise specifically provided in this act.

(b) The secretary shall have the authority to apply for a permit for pesticide use in emergency situations as provided for under the provisions of section 18 of FIFRA and to apply for special local need registrations under the provisions of subsection (c) of section 24 of FIFRA.

History: L. 1947, ch. 10, § 14; L. 2009, ch. 128, § 9; July 1.

2-2215. Judicial review of secretary's actions. In addition to any other remedy which may be available, any action of the secretary pursuant to the agricultural chemical act of 1947 is subject to review in accordance with the Kansas judicial review act

History: L. 1947, ch. 10, § 15; L. 1986, ch. 318, § 14; L. 2010, ch. 17, § 11; July 1.

Kansas Administrative Regulations

Article 1. AGRICULTURAL CHEMICALS

K.A.R. 4-1-2. Definitions. In addition to the terms defined in K.S.A. 2-2202 and amendments thereto, the following terms shall have the meanings specified in this regulation: (a) "Abstracted," as used in K.S.A. 2-2202(x)(3) and amendments thereto, means omitted.

(b) "The act," and "the agricultural chemical act" mean K.S.A. 2-2201 et seq., and amendments thereto.

(c) "Authorized representative" and "designee" mean any person authorized by the secretary to enforce the act.

(d) "Pesticide" shall include insecticides, fungicides, rodenticides, herbicides, nematocides, defoliants, desiccants, and antimicrobials.

(e) "Plant-incorporated protectant" means any pesticidal substance produced by any plant and the genetic material necessary for the plant to produce the substance.

(f) "Plant regulator" shall not include any substance labeled or otherwise represented solely for use as a plant nutrient, fertilizer, or soil amendment.

(g) "Product" means one or more pesticides formulated, packaged, and labeled for distribution or sale.

(h) "Valuable constituent" means any active ingredient or inert ingredient. (Authorized by K.S.A. 2009 Supp. 2-2205; implementing K.S.A. 2009 Supp. 2-2202; effective Jan. 1, 1966; amended May 1, 1982; amended June 10, 2011.)

K.A.R. 4-1-5. Label. The label of each product shall show clearly and prominently the following items:

(a) The complete name of the product under which the product is registered under the act;

(b) the name and address of the manufacturer, registrant, or person for whom the product was manufactured. Unless otherwise stated, any name and address on the label shall be considered as the name and address of the manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer or if the name of the person for whom the product was manufactured appears on the label, the name that appears on the label shall be qualified by appropriate wording that may include "packed for," "distributed by," or "sold by," to indicate that the name is not that of the manufacturer. If the product is manufactured in more than one location or at a location separate from the manufacturer's principal office, then the product label shall state either one of the addresses where the product is manufactured or the address of the manufacturer's principal office;

(c) the EPA registration number, if required under the provisions of FIFRA;

(d) the net contents;

(e) an ingredient statement, which shall meet the following requirements:

(1) The ingredient statement shall appear on the front panel of the label unless the secretary or designee determines that, due to the size or form of the container, a statement on that portion of the label is impractical and permits this statement to appear on another side or panel of the label. If so permitted, the ingredient statement shall be in larger type and more prominent than the surrounding text. The ingredient statement shall run parallel with other printed matter on the panel of the label on which the ingredient statement appears and shall be on a clear, contrasting background and not obscured or crowded;

(2) the acceptable common name of each active ingredient as specified in FIFRA shall appear on the ingredient statement or, if the active ingredient has no common name, the correct chemical name shall be stated. A trademark or trade name shall not be used as the name of an active ingredient unless the trademark or trade name has become a common name;

(3) active ingredients and inert ingredients shall be so designated. The term "inert ingredient" shall appear in the same size type and be as prominent as the term "active ingredient"; and

(4) the percentages of all ingredients shall be determined by weight, and the sum of the percentages of all ingredients shall be 100. Sliding-scale forms of ingredient statements shall not be used;

(f) a first aid statement; and

(g) a warning or caution statement. The warning or caution statement shall appear on the label in a place sufficiently prominent to warn the user and shall state clearly and in nontechnical language the particular hazards involved in the use of the product and the precautions to be taken to avoid accident, injury, or damage to humans and other nontarget organisms. (Authorized by K.S.A. 2010 Supp. 2-2205;

implementing K.S.A. 2010 Supp. 2-2202; effective Jan. 1, 1966; amended May 1, 1982; amended June 10, 2011.)

K.A.R. 4-1-9. Registration. (a) Pursuant to K.S.A. 2-2204 and amendments thereto, a product may be registered by one of the following: any manufacturer, authorized agent of the manufacturer, packer, seller, distributor, or shipper of that product.

(b) The registrant shall be responsible for the accuracy and completeness of all information submitted in connection with the application for registration of a product.

(c) Each registrant shall submit the product labeling to the secretary or designee when initially registering the product and whenever changing or modifying the labeling. When a registrant submits a product's labeling due to a change or modification in the labeling, the labeling shall be accompanied with a written statement that clearly and specifically describes the changes from the previous labeling and the proposed date of implementation of the new labeling. After the effective date of a change in labeling, the product shall be marketed only under the new labeling. Any registrant may request from the secretary or designee that a reasonable time be permitted to relabel or dispose of any products with the old labeling. After the initial registration of a product, any registrant may register that product no more than four consecutive years without the submission of the product label if there is no change to the product label.

(d) Claims or representations made for a product by the registrant or registrant's agent shall not differ from claims or representations made in connection with registration. These claims or representations shall include the following:

- (1) Publications or advertising literature that accompanies the product or is distributed separately from the product;
- (2) advertising by radio, television, internet sites, or other electronic media; and
- (3) verbal and written communication.

(e) If the secretary requires additional information in support of the registration and the registrant believes that the requirement for additional data is unreasonable, the registrant may request a conference with the secretary or designee to discuss the requirement and consider alternatives. Each request for a conference shall be made no later than 20 days after the date on which the request for additional data is sent to the registrant.

(f) Each registration shall be valid through the last day of the calendar year in which the product was registered, unless the registration has been canceled or suspended before that day. (Authorized by K.S.A. 2010 Supp. 2-2205; implementing K.S.A. 2010 Supp. 2-2204; effective Jan. 1, 1966; amended May 1, 1982; amended June 10, 2011.)

K.A.R. 4-1-9a. Registration for special local need. (a) Each person registering a product for additional uses and methods of application not stated on the product's labeling under section three of FIFRA, but not inconsistent with federal law, for the purpose of meeting a special local need shall submit an application for the special local need to the secretary or designee. Each application shall include the following:

- (1) A statement explaining why a special local need registration is necessary;
- (2) efficacy and residue data;
- (3) a letter from a subject matter expert, as recognized by the secretary or designee, detailing support for the special local need registration;

(4) EPA form 8570-25, “application for/notification of state registration of a pesticide to meet a special local need”; and

(5) a proposed label for the product.

(b) A product shall not be eligible for special local need registration if at least one of the following conditions is met:

(1) There is insufficient evidence to support a special local need for the additional use or method of application within the state.

(2) The registrant and product do not meet all requirements under the act and the Kansas pesticide law.

(3) For a food or feed use, the additional use or method of application does not have an established residue tolerance, or an exemption from tolerance, under FIFRA.

(4) The same use or method of application has previously been denied, disapproved, suspended, or cancelled by EPA.

(5) The same use or method of application has been voluntarily cancelled by the registrant.

(c) A special local need registration shall be issued to the applicant upon referral of the application to EPA by the secretary.

(d) A special local need registration shall be immediately cancelled by the secretary or designee if the application is disapproved by EPA.

(e) Each special local need registration of a product shall be renewed annually, but may be renewed no more than four times without resubmission of a special local need request pursuant to K.A.R. 4-1-9a. (Authorized by K.S.A. 2009 Supp. 2-2205 and K.S.A. 2009 Supp. 2-2214; implementing K.S.A. 2009 Supp. 2-2207; effective June 10, 2011.)

K.A.R. 4-1-9b. Emergency situation exemptions. (a) Any person may submit a request for a registration exemption under section 18 of FIFRA to the secretary or designee if an emergency situation exists.

(b) “Emergency situation” shall include the following: a specific emergency, a public health emergency, a quarantine emergency, and a crisis emergency that is urgent and nonroutine.

(c) Each request for registration exemption under section 18 of FIFRA shall include documentation of each of the following:

(1) No effective registered products are available.

(2) No feasible alternative control practices are available.

(3) The emergency situation involves the introduction of a new pest, will present significant risks to human health or the environment, or will cause significant economic loss.

(d) Each person seeking an emergency situation exemption shall compile and present to the secretary or designee any additional information required by EPA to support the request.

(e) Each person distributing a product under the emergency situation exemption shall provide the end user with the product labeling that was approved for the emergency situation exemption.

(f) Each person distributing or using products under an emergency situation exemption shall meet the following requirements:

(1) Comply with all reporting requirements contained within the emergency situation exemption; and

(2) notify the secretary or designee of any adverse effects resulting from the use of the product.

(Authorized by K.S.A. 2009 Supp. 2-2205; implementing K.S.A. 2009 Supp. 2-2207; effective June 10, 2011.)

K.A.R. 4-1-13. Enforcement; product sampling. Collection of samples of products for analysis shall be performed by the secretary or designee. A sample may be taken as either an unopened original package or a portion from the unopened original package. (Authorized by K.S.A. 2009 Supp. 2-2205; implementing K.S.A. 2009 Supp. 2-2206, as amended by L. 2010, ch. 17, §10; effective Jan. 1, 1966; amended May 1, 1982; amended June 10, 2011.)

K.A.R. 4-1-14. Experimental use. (a) A product, including a plant or seed modified genetically to include a plant incorporated protectant, may be distributed for experimental use without registration under K.S.A. 2-2204, and amendments thereto, if either of the following conditions is met:

(1) A permit for the product has been obtained from the secretary or designee.

(2) The experimental use of the product is limited to one of the following:

(A) Laboratory or greenhouse tests; or

(B) a small-scale test conducted on a cumulative total of no more than one acre of land per pest.

(b) An experimental use permit may be issued if the secretary or designee determines that the applicant needs the permit to accumulate information necessary to register a pesticide under K.S.A. 2-2204, and amendments thereto. Issuance of an experimental use permit may be denied by the secretary or designee if it is determined that the proposed use of the pesticide could cause unreasonable adverse effects on the environment. Terms, conditions, and a limited time period of the experimental use permit may be prescribed by the secretary or designee.

(c) Each application for experimental use shall include the following:

(1) The name and address of the applicant;

(2) the purpose or objectives of the experimental use and the experimental protocols to be followed;

(3) the name, address, and telephone number of all participants in the experimental use in Kansas;

(4) the amount of the product, including a plant or seed modified genetically to include a plant-incorporated protectant, to be shipped into or used in Kansas;

(5) the applicant's signature;

(6) documentation of EPA approval;

(7) a copy of the experimental use product labeling approved by EPA; and

(8) any other relevant information requested by the secretary or designee. If the secretary requires additional information in support of the application and the applicant believes that the requirement for additional data is unreasonable, the applicant may request a conference with the secretary or designee to discuss the requirement and consider alternatives. Each request for a conference shall be made no later than 20 days after the date the request for additional data is sent to the applicant.

(d) After the permit is issued, the permittee shall meet the following requirements:

(1) Coordinate the dates and locations of the proposed use of the product with the secretary or designee; and

(2) notify the secretary or designee of any adverse effects resulting from the experimental use within 24 hours of discovery.

(e) An experimental use permit may be modified, revoked, suspended, or modified by the secretary or designee at any time if either of the following conditions is met:

(1) The secretary or designee finds that the terms or conditions of the permit are being violated.

(2) The secretary or designee, after taking into account the economic, social, and environmental costs and benefits of the use of the product under the existing permit, determines the risk to the environment to be unacceptable.

(f) At the conclusion of the experimental use, the permittee shall submit a final report to the secretary or designee summarizing the results. (Authorized by K.S.A. 2009 Supp. 2-2205; implementing K.S.A. 2009 Supp. 2-2207; effective Jan. 1, 1966; amended May 1, 1982; amended June 10, 2011.)

K.A.R. 4-1-17. Registration fee. The annual registration fee for each registered product shall be \$150.00. (Authorized by K.S.A. 2009 Supp. 2-2204 and K.S.A. 2009 Supp. 2-2205; implementing K.S.A. 2009 Supp. 2-2204; effective, T-83-35, Nov. 10, 1982; effective May 1, 1983; amended, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended, T-4-6-22-89, June 22, 1989; amended Aug. 14, 1989; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended June 10, 2011.)

Attachment 2-B3: Kansas Agricultural and Specialty Chemical Remediation Act, K.S.A. 2-3701 et seq., (Kansas Chemigation Safety Law)

The following copy of selected statutes and regulations is being made available by the Kansas Department of Agriculture for the convenience of the public and is meant to be used only as a reference. While the Kansas Department of Agriculture has made every effort to accurately reproduce these statutes and regulations, they are not the official statutes and regulations of the State. The Kansas Statutes Annotated (K.S.A.), published by the Revisor of Kansas Statutes, and the Kansas Administrative Regulations (K.A.R.), published by the Secretary of State should be consulted for the text of the official statutes and administrative regulations of the State.

Kansas Statutes Annotated Kansas Agricultural and Specialty Chemical Remediation Act (Kansas Chemigation Safety Law)

K.S.A. 2-3701. Short title. K.S.A. 2-3701 through 2-3714, and amendments thereto, may be cited as the agricultural and specialty chemical remediation act.

History: L. 2000, ch. 82, § 1; July 1.

K.S.A. 2-3702. Definitions. As used in K.S.A. 2-3701 through 2-3714, and amendments thereto:

(a) "Agricultural or specialty chemical" means any pesticide, fertilizer, plant amendment or soil amendment but does not include nitrate and related nitrogen from a natural source.

(b) "Board" means the Kansas agricultural remediation board created by K.S.A. 2-3709, and amendments thereto.

(c) "Corrective action" means action in response to release of an agricultural or specialty chemical that poses a threat to human health or the environment.

(d) "Eligible corrective action costs" means reasonable and necessary costs of corrective action, as determined in accordance with rules and regulations adopted by the board.

(e) "Eligible lending institution" means:

(1) A bank, as defined in K.S.A. 75-4201, and amendments thereto, that agrees to participate in the remediation linked deposit program and is eligible to be a depository of state funds; or

(2) an institution of the farm credit system organized under the federal farm credit act of 1971 (12 U.S.C. § 2001), as amended, that agrees to participate in the remediation linked deposit program and provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(f) "Eligible person" means:

(1) A responsible party or an owner of real property, but does not include the state, any state agency, any political subdivision of the state, the federal government or any agency of the federal government; or

(2) a person who: (A) Is involved in a transaction relating to real property; (B) is not a responsible party or owner of the real property; and (C) voluntarily takes corrective action on the property in response to a request or order for corrective action from the department of health and environment.

(g) "Fund" means the Kansas agricultural remediation fund established by K.S.A. 2-3711, and amendments thereto.

(h) "Linked deposit" means an investment account placed by the director of investments under the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated with an eligible lending institution for the purpose of the remediation linked deposit loan program.

(i) "Release" means any spill, leak, emission, discharge, escape or disposal of an agricultural or specialty chemical into the soils or waters of the state.

(j) "Remediation linked deposit loan package" means the forms provided by the state treasurer for the purpose of applying for a remediation linked deposit.

(k) "Remediation linked deposit loan program" means the program provided for by K.S.A. 2-3703 through 2-3707, and amendments thereto.

(l) "Remediation reimbursement program" means the program provided for by K.S.A. 2-3709 through 2-3713, and amendments thereto.

(m) "Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances and machinery, whether fixed or mobile, including anything used for transportation, within a one-half mile radius of a release.

History: L. 2000, ch. 82, § 2; July 1.

K.S.A. 2-3703. Purpose; rules and regulations; annual reports. (a) There is hereby established the remediation linked deposit loan program, which shall be administered by the state treasurer. The program shall be for the purpose of providing loans to eligible persons to pay the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment. Such loans shall be made only for projects approved by the board.

(b) The state treasurer may adopt rules and regulations to administer and implement the remediation linked deposit loan program.

(c) On or before February 1 of each year, the state treasurer shall submit to the governor, the senate standing committee on energy and natural resources and the house of representatives standing committee on environment an annual report on the activities of the remediation linked deposit loan program.

History: L. 2000, ch. 82, § 3; July 1.

K.S.A. 2-3704. Loans; application; limitations; use; approval or rejection. (a) The state treasurer is hereby authorized to disseminate information and provide remediation linked deposit loan packages to lending institutions eligible for participation in the remediation linked deposit loan program.

(b) The remediation linked deposit loan package shall be completed by the eligible person applying for the loan before the package is forwarded to the lending institution for consideration.

(c) (1) An eligible lending institution that agrees to receive a remediation linked deposit shall accept and review applications for remediation linked deposit loans from eligible persons. The lending institution shall apply all usual lending standards to determine the credit worthiness of eligible persons applying for remediation linked deposit loans. The total amount of linked deposit loans for any one site shall not exceed \$300,000. The total amount of linked deposits pursuant to K.S.A. 2-3701 through 2-3714, and amendments thereto, shall not exceed \$5,000,000 at any one time.

(2) Only one remediation linked deposit loan shall be made and be outstanding at any one time to any eligible person.

(3) No remediation linked deposit loan shall be amortized for a period of more than 10 years.

(d) An eligible person applying for a remediation linked deposit loan shall certify on the loan application that the loan will be used exclusively for the purpose of paying costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment.

(e) The eligible lending institution may approve or reject a remediation linked deposit loan package based on the lending institution's evaluation of the applicant included in the package, the amount of the individual loan in the package and other appropriate considerations.

(f) The eligible lending institution shall forward to the state treasurer an approved remediation linked deposit loan package, in the form and manner prescribed and approved by the state treasurer. The package shall include information regarding the amount of the loan requested by the applicant and such other information as the state treasurer requires, including a certification by the applicant that the applicant is an eligible person.

History: L. 2000, ch. 82, § 4; July 1.

K.S.A. 2-3705. Procedures for making deposits; deposit agreement, terms. (a) If sufficient moneys are not available for a remediation linked deposit, applications may be considered in the order received when moneys are once again available, subject to a review by the lending institution.

(b) Upon acceptance, the state treasurer shall certify to the director of investments the amount required for a remediation linked deposit loan package and the director of investments shall place a remediation linked deposit in the amount certified by the state treasurer with the eligible lending institution at an interest rate which is 2% below the market rate, as determined under K.S.A. 75-4237, and amendments thereto, and which shall be recalculated on the first business day of January and July of each calendar year using the market rate then in effect. The minimum interest rate shall be .50%, if the market rate is below 2.5%. When necessary, the state treasurer may request the director of investments to place such remediation linked deposit prior to acceptance of a remediation linked deposit loan package.

(c) The eligible lending institution shall enter into a remediation linked deposit agreement with the state treasurer. Such agreement shall include requirements necessary to implement the purposes of the remediation linked deposit loan program. Such requirements shall include an agreement by the eligible lending institution to lend an amount equal to the remediation linked deposit to eligible persons at an interest rate that is not more than 2% above the market rate, as determined under K.S.A. 75-4237, and amendments thereto, and which shall be recalculated on the first business day of each calendar year using the market rate then in effect. The agreement shall include provisions for the remediation linked deposit to be placed for a maturity considered appropriate in coordination with the underlying remediation linked deposit loan. The agreement shall include provisions for the reduction of the remediation linked deposit in an amount equal to any payment of loan principal by the eligible person.

History: L. 2000, ch. 82, § 5; L. 2009, ch. 123, § 1; July 1.

K.S.A. 2-3706. Procedures for making loans; interest rate. Upon the placement of a remediation linked deposit with an eligible lending institution, the institution shall make the loan to each approved eligible person listed in the remediation linked deposit loan package in accordance with the remediation linked deposit agreement between the institution and the state treasurer. The loan shall be at a rate as provided in K.S.A. 2-3705, and amendments thereto. A certification of compliance with this section in

the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution.

History: L. 2000, ch. 82, § 6; July 1.

K.S.A. 2-3707. Effect of late payment or default. Neither the state nor the state treasurer shall be liable to any eligible lending institution in any manner for payment of the principal or interest on a remediation linked deposit loan pursuant to K.S.A. 2-3701 through 2-3714, and amendments thereto. Any delay in payments or default on the part of an eligible person does not in any manner affect the remediation linked deposit agreement between the eligible lending institution and the state treasurer.

History: L. 2000, ch. 82, § 7; July 1.

K.S.A. 2-3708. Purpose; amount of reimbursement, limits. (a) There is hereby established the remediation reimbursement program. The program shall be for the purpose of providing reimbursement to eligible persons for the costs of corrective action approved by the department of health and environment or taken in accordance with requests or orders issued by the department of health and environment.

(b) The amount of reimbursement that an eligible person may receive from the fund shall be limited as follows:

(1) Except as provided in paragraph (2), for an eligible person who has paid all applicable assessments imposed pursuant to K.S.A. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to: (A) 90% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$100,000; plus (B) 80% of total eligible corrective action costs greater than \$100,000 and less than or equal to \$200,000. The total amount reimbursed for any one site shall not exceed \$200,000 within a 5 year period or as otherwise set forth by the board pursuant to rules and regulations, unless the property has been sold or leased and both the buyer and seller or lessee and lessor are responsible for remediation, in which case the total amount reimbursed for any such site shall not exceed \$400,000 within a five year period or as otherwise set forth by the board pursuant to rules and regulations.

(2) For an eligible person who is not required to pay or has not paid any assessment imposed pursuant to K.S.A. 2-3713, and amendments thereto, or for a pesticide dealer who has paid the annual \$5 assessment pursuant to subsection (a)(4) of K.S.A. 2-3713, and amendments thereto, reimbursement per site shall not exceed an amount equal to 100% of total eligible corrective action costs greater than \$1,000 and less than or equal to \$10,000.

History: L. 2000, ch. 82, § 8; L. 2001, ch. 47, § 2; L. 2008, ch. 6, § 1; July 1.

K.S.A. 2-3709. Kansas agricultural remediation board; creation. (a) There is hereby created the Kansas agricultural remediation board. The board shall consist of five members appointed by the governor. Of the five members, one shall be a representative of agricultural retailers, one shall be a representative of agricultural producers, one shall be a representative of agricultural processors, one shall be a representative of specialty chemical distributors or retailers and one shall be a representative of agricultural and specialty chemical registrants. Not more than three voting members shall be members of the same political party. One representative of the Kansas department of agriculture and one representative of the Kansas department of health and environment shall serve as members of the board ex officio.

(b) Except as provided by this section, the term of office of each member of the board shall be four years. Each member shall serve until a successor is appointed. Whenever a vacancy occurs in the

membership of the board prior to the expiration of a term of office, the governor shall appoint a qualified successor to fill the unexpired term.

(c) The governor shall designate the chairperson and vice-chairperson of the board from the members of such board.

(d) Meetings shall be held as determined by the board.

(e) Members of the board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

History: L. 2000, ch. 82, § 9; L. 2005, ch. 5, § 1; L. 2012, ch. 140, § 1; July 1.

K.S.A. 2-3710. Same; powers and duties. The board shall have the following powers, duties and functions:

(a) Administer the fund and the remediation reimbursement program.

(b) Subject to K.S.A. 2-3701 through 2-3714, and amendments thereto, adopt rules and regulations concerning the terms and conditions of any reimbursements from the fund.

(c) Adopt rules and regulations establishing, for purposes of the remediation linked deposit loan program and the remediation reimbursement program, criteria for classification and prioritization of properties where contamination was caused by a release of agricultural or specialty chemicals, or both. Classification and prioritization may account for the criteria contained in Kansas department of health and environment's voluntary clean up and property redevelopment program and state cooperator program.

(d) Establish operating standards and procedures which shall include, but not be limited to, the following:

(1) With respect to the remediation linked deposit loan program, provisions governing board approval of projects for which applications for loans may be made;

(2) with respect to the remediation reimbursement program, provisions governing application procedures, determination of eligible corrective action costs, determination of ineligible corrective costs and reimbursement or payment of eligible corrective action costs; and

(3) with respect to both programs, provisions governing conflicts of interest, appeals procedures, review and priority determinations and enforcement of the provisions of K.S.A. 2-3701 through 2-3714, and amendments thereto.

(e) Appoint or contract for qualified administrative services subject to the limitation that expenditures from the fund for the administrative expenses of the board and the programs established by K.S.A. 2-3701 through 2-3714, and amendments thereto, shall not exceed \$150,000 in any fiscal year.

(f) Annually provide an independent audit of the fund.

(g) On or before February 1 of each year, submit to the governor, the senate standing committee on energy and natural resources and the house standing committee on environment an annual report of the activities and reimbursements for which money from the fund has been expended during the previous fiscal year, including a copy of the independent audit.

History: L. 2000, ch. 82, § 10; July 1.

K.S.A. 2-3711. Kansas agricultural remediation fund; creation. (a) There is hereby created in the state treasury the Kansas agricultural remediation fund.

(b) All expenditures from the Kansas agricultural remediation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas agricultural remediation fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas agricultural remediation fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

History: L. 2000, ch. 82, § 11; July 1.

K.S.A. 2-3712. Assessments; when required. (a) If the unobligated principal balance of the Kansas agricultural remediation fund equals or exceeds \$3,000,000 on April 1 of any year, the assessments imposed by K.S.A. 2-3713, and amendments thereto, shall not be levied on or after the next July 1. If the unobligated principal balance of the fund equals \$1,000,000 or less, on April 1 of any following year, the assessments imposed by K.S.A. 2-3713, and amendments thereto, shall again be levied on and after the next July 1.

(b) The director of accounts and reports, not later than April 5 of each year, shall notify the board of the amount of the unobligated balance of the fund on April 1 of such year. Upon receipt of the notice, the board shall notify the secretary of agriculture, who shall notify fee payers under K.S.A. 2-3713, and amendments thereto, if the levy of assessments under that section will terminate or recommence on the following July 1.

History: L. 2000, ch. 82, § 12; July 1; L. 2019, ch. 2, § 1; July 1.

K.S.A. 2-3713. Same; amounts (a) Subject to the provisions of K.S.A. 2-3712, and amendments thereto, there is hereby imposed environmental assessments as follows:

(1) An annual assessment of \$100 to be paid by each custom blender required to be licensed pursuant to K.S.A. 2-1201a, and amendments thereto. Such assessment shall be paid to the secretary of agriculture by the custom blender at the time and in the manner provided by law for payment of the custom blender's license fee.

(2) An annual assessment of \$40 for each commercial fertilizer required to be registered pursuant to K.S.A. 2-1202, and amendments thereto. Such assessment shall be paid to the secretary of agriculture by the applicant for registration at the time and in the manner provided by law for payment of the registration fee for the commercial fertilizer.

(3) An annual assessment of \$30 for each agricultural chemical required to be registered pursuant to K.S.A. 2-2204, and amendments thereto, other than an agricultural chemical classified as an antimicrobial pesticide, as defined by 7 U.S.C. § 136(mm). Such assessment shall be paid to the secretary of agriculture by the applicant for registration at the time and in the manner provided by law for payment of the registration fee for the agricultural chemical.

(4) An annual assessment to be paid by each pesticide dealer required to be registered pursuant to K.S.A. 2-2469, and amendments thereto. If the annual sales of pesticides from the previous year by a pesticide dealer from a business location are less than \$2,500, the annual assessment shall be \$5. If the annual sales of pesticides from the previous year by a pesticide dealer from a business location are equal to or greater than \$2,500, the annual assessment shall be \$80. Such assessment shall be paid to the secretary of agriculture by the pesticide dealer at the time and in the manner provided by law for payment of the dealer's registration fee.

(5) An annual assessment of \$.00025 per bushel of storage capacity of each public warehouse required to be licensed pursuant to K.S.A. 34-228, and amendments thereto, or pursuant to the federal

warehouse act. Such assessment shall be paid to the secretary of agriculture by the applicant for licensure at the time and in the manner provided by law for payment of the warehouse license fee.

(6) An annual assessment of \$.00025 per bushel of storage capacity of each public warehouse in this state that is licensed pursuant to the United States warehouse act. Such assessment shall be paid to the secretary of agriculture by the licensee on or before August 31 of each year.

(7) An annual assessment of \$1,000 to be paid by the responsible party for a site that has been sold or leased but where the seller or lessor still retains responsibility for cleaning up the site. Such assessment shall be paid to the secretary of agriculture by the responsible party on or before September 30 of each year.

(b) The secretary of agriculture shall remit to the state treasurer all moneys collected by the secretary from assessments paid pursuant to this section. The state treasurer shall deposit the entire amount of the remittance in the state treasury and credit it to the fund.

(c) The secretary of agriculture shall adopt rules and regulations establishing procedures for payment and collection of all environmental assessments.

(d) The secretary of agriculture shall have the authority to reimburse or refund a person if an error occurred in the payment of an assessment.

(e) For a remediated site to be eligible for reimbursement under K.S.A. 2-3708(b), and amendments thereto, all applicable environmental assessments must be paid for such site.

History: L. 2000, ch. 82, § 13; L. 2001, ch. 47, § 1; L. 2008, ch. 6, § 2; July 1; L. 2019, ch. 2, § 2; July 1.

K.S.A. 2-3714. Abolition of programs. On July 1, 2030, the remediation linked deposit loan program, the remediation reimbursement program and the fund are hereby abolished.

History: L. 2000, ch. 82, § 14; L. 2008, ch. 6, § 3; July 1; L. 2019, ch. 2, § 3; July 1.

Attachment 2-C: PROVISIONS FOR GROUNDS FOR DENYING, SUSPENDING OR REVOKING A CERTIFICATION.

K.S.A. 2-2449. Grounds for denial, suspension, revocation or modification of license. The secretary may deny, suspend, revoke or modify the provisions of any license, registration, permit or certificate issued under this act, if the secretary finds, after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act, that the applicant, licensee, registrant, permit holder or certificate holder has:

- (a) Been convicted of or pleaded guilty to a violation of this act, or been convicted of or pleaded guilty to a felony under the laws of this state or of the United States, if the secretary determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- (b) failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder, or any of the laws or rules and regulations of any other state or the United States relating to licensing or other provisions concerning pesticide use or control; or
- (c) had any license, certificate, registration or permit issued to the person under this act, or the pest control or pesticide use laws of any other state revoked.

History: L. 1976, ch. 1, § 12; L. 1977, ch. 3, § 7; L. 1984, ch. 313, § 44; L. 2009, ch. 128, § 20; L. 2010, ch. 60, § 3; July 1.

Attachment 2-D: PROVISIONS FOR REVIEWING, SUSPENDING AND REVOKING A CERTIFICATION.

K.S.A. 2-2449. Grounds for denial, suspension, revocation or modification of license. The secretary may deny, suspend, revoke or modify the provisions of any license, registration, permit or certificate issued under this act, if the secretary finds, after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act, that the applicant, licensee, registrant, permit holder or certificate holder has:

- (a) Been convicted of or pleaded guilty to a violation of this act, or been convicted of or pleaded guilty to a felony under the laws of this state or of the United States, if the secretary determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- (b) failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder, or any of the laws or rules and regulations of any other state or the United States relating to licensing or other provisions concerning pesticide use or control; or
- (c) had any license, certificate, registration or permit issued to the person under this act, or the pest control or pesticide use laws of any other state revoked.

History: L. 1976, ch. 1, § 12; L. 1977, ch. 3, § 7; L. 1984, ch. 313, § 44; L. 2009, ch. 128, § 20; L. 2010, ch. 60, § 3; July 1.

Attachment 2-E: PROVISIONS FOR ASSESSING CIVIL AND CRIMINAL PENALTIES.

K.S.A. 2-2440e provides KDA with the authority to assess civil penalties against pesticide business licensees and pesticide dealers for violations of the Kansas Pesticide Law, K.S.A. 2-2438a *et seq.*, and rules and regulations adopted thereunder.

Pursuant to K.S.A. 2-2461, a certified private applicator violating the Kansas Pesticide Law, K.S.A. 2-2438a *et seq.*, and rules and regulations adopted thereunder, may be convicted of a misdemeanor. Additionally, any person other than a certified private applicator violating the Kansas Pesticide Law, K.S.A. 2-2438a *et seq.*, and rules and regulations adopted thereunder, may be convicted of a class A misdemeanor.

The statutory language of K.S.A. 2-2440e and K.S.A. 2-2461 is included below. Also, KDA has included additional statutory and regulatory provisions below since those provisions relate to civil and criminal penalties and KDA's administrative procedure after issuance of administrative orders assessing civil penalties.

K.S.A. 2-2440e. Pesticide business licensee; civil penalties; appeal procedure; deposit of moneys. (a) Any pesticide business licensee or pesticide dealer who violates any of the provisions of K.S.A. 2-2453 or 2-2454 and amendments thereto, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the secretary in an amount not less than \$100 nor more than \$5,000 for each violation and, in the case of a continuing violation, every day such violation continues may be deemed a separate violation.

(b) A duly authorized agent of the secretary, upon a finding that a pesticide business licensee or pesticide dealer or any employee or agent thereof or any person or entity required to be licensed as a pesticide business licensee or registered as a pesticide dealer who violates any of the provisions of K.S.A. 2-2453 and 2-2454, and amendments thereto, may impose a civil penalty as provided in this section upon such licensee or dealer.

(c) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the secretary to the pesticide business licensee or pesticide dealer who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such pesticide business licensee or pesticide dealer to appeal to the secretary. Any such licensee or dealer, within 20 days after notification, may make written request to the secretary for a hearing or informal conference hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

(d) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(e) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer; upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(f) This section shall be a part of and supplemental to the Kansas pesticide law.

History: L. 1988, ch. 7, § 5; L. 2001, ch. 5, § 16; L. 2009, ch. 128, § 15; L. 2010, ch. 17, § 12; July 1.

K.S.A. 2-2461. Penalties; injunction. (a) Any person other than a certified private applicator violating or failing to comply with any provision of this act or any authorized rule or regulation of the secretary shall be deemed guilty of a class A misdemeanor. Each separate violation shall constitute a separate offense.

(b) Any certified private applicator who violates any of the provisions of this act or any authorized rules or regulations of the secretary shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$100 and not more than \$500. Each day of operation after notice shall constitute a separate offense.

(c) The district courts of Kansas shall have jurisdiction to restrain violations of this act by injunction without the institution of criminal proceedings. Said injunction shall be issued without bond.

History: L. 1976, ch. 1, § 24; L. 1977, ch. 3, § 14; L. 2004, ch. 101, § 48; July 1.

K.A.R. 4-13-40. Types of hearings. (a) A conference adjudicative hearing may be used for the following types of action:

(1) Suspension or revocation of a pesticide business license for the licensee's failure to maintain acceptable insurance or bond continuously during the licensing period as required by K.S.A. 2-2448, and amendments thereto;

(2) suspension or revocation of the pesticide business license or governmental registration for the licensee's failure to employ a certified commercial applicator for each category of business operations in which a license has been issued;

(3) suspension of a pesticide business license, governmental registration, or applicator's certificate, whether commercial or private, that has been issued when fees were paid by an insufficient fund check;

(4) suspension or revocation of a pesticide business license, governmental agency registration, or any certificate for multiple or repeated violations of the Kansas pesticide law or of the implementing regulations, if no material issue of fact is involved; and

(5) any other instances designated in K.S.A. 77-533, and amendments thereto.

Nothing in this subsection shall prohibit the conversion of another type of hearing to a conference adjudicative hearing. Conversion procedures shall conform with K.S.A. 77-506, and amendments thereto.

(b) The summary adjudicative hearing may be used for the following types of action:

(1) A reprimand, warning, or disciplinary report pertaining to a violation of the Kansas pesticide law or any implementing regulation;

(2) any matter that can be resolved solely on the basis of inspections, examinations, or tests made by the agency or its personnel; and

(3) assessment of civil penalties pertaining to a violation of the Kansas pesticide law or any implementing regulation.

All other hearings, except emergency adjudicative hearings or hearings that have been initiated as or converted to conference adjudicative hearings or summary adjudicative hearings, shall be formal adjudicative hearings as defined in the Kansas administrative procedures act. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2449 and 2-2451; effective May 1, 1985; amended July 18, 2008.)

K.A.R. 4-13-60. Civil penalty; order. Each order assessing a civil penalty shall include the following:

(a) A statement reciting each subsection of the act authorizing the assessment of civil penalty;

(b) a specific reference to each provision of the act or implementing regulation that the respondent is alleged to have violated;

- (c) a concise statement of the factual basis for each violation alleged;
- (d) the amount of the civil penalty to be assessed; and
- (e) the notice of the respondent's right to request a hearing. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e; effective Jan. 1, 1989; amended Aug. 22, 1994; amended July 18, 2008.)

K.A.R. 4-13-62. Amount of civil penalty. (a) A separate civil penalty shall be assessed for each violation of the pesticide law that results from each independent act or failure to act by any pesticide business licensee or pesticide dealer, or any agent or employee of a pesticide business licensee or pesticide dealer. In determining whether a given violation is independent of and substantially distinguishable from any other violation for the purpose of assessing separate civil penalties, consideration shall be given to whether each violation requires an element of proof not required by another violation. If several violations require the same elements of proof and are not distinguishable, the assessment of separate civil penalties shall be within the discretion of the secretary or the secretary's authorized representative.

(b) The amount of each civil penalty shall be within the following ranges:

(1) For each violation of K.S.A. 2-2453(a) or (b) and amendments thereto, the civil penalty shall be not less than \$100 and not more than \$5,000.

(2) For each violation of K.S.A. 2-2454(b), (m), (o), (r), (s), or (t) and amendments thereto, the civil penalty shall be not less than \$100 and not more than \$5,000.

(3) For each violation of K.S.A. 2-2454, and amendments thereto, not covered in paragraph (b)(2), the civil penalty shall be not less than \$100 and not more than \$1,000.

(4) For each violation of K.S.A. 2-2453(c), and amendments thereto, not already covered in paragraph (b) (1), (2), or (3), the civil penalty shall be not less than \$100 and not more than \$1,000.

(c) For each subsequent occurrence of a violation for which a civil penalty has been assessed within a three-year period, the civil penalty assessed for the subsequent violation shall be the maximum amount for the category listed. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e, as amended by L. 2009, Ch. 128, §15; effective Jan. 1, 1989; amended Jan. 25, 1993; amended Feb. 5, 2010.)

K.A.R. 4-13-63. Criteria to determine dollar amount of proposed civil penalty.

In determining the amount of any proposed civil penalty, the gravity of the violation shall be considered by the secretary or the secretary's designee. Factors to be considered shall include:

- (a) The potential of the act to injure humans, pets, domestic animals, wildlife or the environment;
- (b) the severity of potential injuries;
- (c) the extent to which injury actually occurred;
- (d) the respondent's history of compliance with state and federal pesticide laws and regulations promulgated thereunder;
- (e) any action taken by respondent to remedy the specific violation or to mitigate any adverse health effects or environmental effects which were the result of the violation; and
- (f) whether or not the violation involved any misrepresentation or fraud. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e; effective Jan. 1, 1989; amended Jan. 25, 1993.)

K.A.R. 4-13-64. Informal settlement. (a) Any respondent may request a settlement conference if the respondent timely filed a written request for hearing. The request may be made before the prehearing conference.

(b) If a settlement is reached, the parties shall reduce the settlement to writing and present the proposed written consent agreement to the secretary. The consent agreement shall state that, for the purpose of the proceeding, the following conditions are met:

(1) The respondent admits the jurisdictional allegations and admits the facts stipulated in the consent agreement.

(2) The respondent neither admits nor denies the specific violations contained in the order.

(3) The respondent consents to the assessment of a stated civil penalty.

The consent agreement shall include all terms of the agreement and shall be signed by all parties or their counsel. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e; effective Jan. 1, 1989; amended Aug. 22, 1994; amended July 18, 2008.)

K.A.R. 4-13-65. Adjusting the amount of the civil penalty. (a) Each respondent shall present all evidence on the issue of adjustment of the civil penalty at the settlement conference. This evidence may include mitigating factors or new evidence not previously known to the agency when the order was issued.

(b) Upon presentation by the respondent of new evidence establishing facts and circumstances that were unknown to the secretary when the order was issued and that relate to the gravity of the violation, the civil penalty may be reduced.

If additional facts establish a respondent did not commit a violation, the order shall be amended or vacated.

(c) The burden shall be on the respondent to present evidence of any mitigating factors to support any requested reduction in the amount of the civil penalty. The amount of the civil penalty may be reduced if the reduction serves the public interest.

(d) The amount of a civil penalty shall not be reduced to less than \$100 per offense.

(1) Whether or not a civil penalty is reduced shall be within the sole discretion of the secretary or the secretary's designee.

(2) Reductions shall not occur unless evidence of mitigating factors has been presented by a respondent.

(Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e; effective Jan. 1, 1989; amended Aug. 22, 1994; amended July 18, 2008.)

Attachment 2-F: PROVISIONS FOR RIGHT OF ENTRY FOR INSPECTIONS.

K.S.A. 2-2462. Enforcement. For the purposes of carrying out the provisions of this act, the secretary or his or her agent or the county or district attorney or their agents may enter any premises at any reasonable time, in order:

- (1) To have access for the purpose of inspecting any equipment subject to this act and such premises on which such equipment is kept or stored; or
- (2) to inspect or sample lands and crops actually or reported to be exposed to pesticides; or
- (3) to inspect storage or disposal areas; or
- (4) to inspect or investigate complaints of injury to humans, crops or land; or
- (5) to sample pesticides being applied or to be applied; or (6) to observe the use and application of a pesticide.

Should the secretary, his or her agent or the county or district attorney or their agents be denied access to any land where such access was sought for the purposes authorized, the secretary or the county or district attorney may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

The enforcement of the criminal provisions of this act shall be the duty of, and shall be implemented by, the county or district attorneys of the various counties or districts. In the event a county or district attorney refuses to act, the attorney general shall so act. The secretary is charged with the duty of enforcing all other provisions of this act.

History: L. 1976, ch. 1, § 25; Oct. 21, 1977.

Attachment 2-G: PROVISIONS FOR MAKING IT UNLAWFUL TO APPLY RUPs UNLESS CERTIFIED.

K.S.A. 2-2441a. Commercial applicator's certificate; exemptions; application and fees; expiration. No individual except the following shall use any restricted use pesticide without a commercial applicator's certificate issued by the secretary: (a) Individuals applying restricted use pesticides under a private applicator certification;

(b) employees of a pesticide business licensee using only nonaerial methods of applying pesticides and who work only under the supervision of a certified commercial applicator. The secretary may authorize any certified aerial applicator to apply restricted use pesticides in a category or subcategory other than one in which such applicator is certified under the supervision of an applicator certified in the category or subcategory in which the pesticide is being applied during an emergency situation declared by the secretary with the consent of the governor;

(c) veterinarians or physicians using pesticides as a part of their professional services;

(d) qualified laboratory personnel employed by recognized pesticide research facilities, using pesticides or pest control services while engaged in pesticide use research; and

(e) federal employees using pesticides as a part of their employment by a federal agency which has its own certification program which is the full equivalent of the requirements of this state.

Such a commercial applicator's certificate shall be required in addition to any other license or permit required by law for the operation or use of pesticide application equipment. Any person applying for such commercial applicator's certificate shall file an application on a form prescribed by the secretary. If the secretary finds the applicant qualified to apply pesticides in the categories or subcategories the applicant has applied for after examinations on the same basis as provided for in K.S.A. 2-2443a and amendments thereto, the secretary shall issue a commercial applicator's certificate limited to the categories or subcategories for which the applicant is qualified, which certificate shall expire at the end of the second calendar year after the year of issue. If a certificate is not issued as applied for, the secretary shall inform the applicant in writing of the reasons for such denial.

History: L. 1977, ch. 3, § 3; L. 1982, ch. 4, § 9; L. 2002, ch. 181, § 5; L. 2004, ch. 85, § 5; L. 2009, ch. 128, § 16; July 1.

K.S.A. 2-2440b. Unlawful acts; pest control technician registration, requirements and fees. (a) It shall be unlawful for any pesticide business licensee to apply pesticides for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests unless the applicator of the pesticide is a certified commercial applicator or is a registered pest control technician, except that an uncertified commercial applicator may apply pesticides when either a certified applicator or registered pest control technician is physically present.

Attachment 2-H: PROVISIONS FOR COMMERCIAL APPLICATOR RECORDKEEPING.

K.S.A. 2-2455. Written statement for services to customer; records, maintenance and availability to secretary. (a) Each pesticide business shall present to each customer for whom such business performs a pest control service involving the application of pesticides a statement of services or contract setting forth the following information:

- (1) Business name and address of the pesticide business licensee;
- (2) name and address of the customer;
- (3) pest or pests to be controlled, which may be stated in general terms;
- (4) pesticide to be used including the quantity applied and total area to which the pesticide is applied;
- (5) the concentration or rate of application, when applicable;
- (6) the date and location of the application of the pesticide;
- (7) the expiration date of all guarantees, if any be given;
- (8) the signature of the individual who performed the pest control service or the application of pesticides;
- (9) the signature of the individual who supervised the performance of the pest control service or the application of pesticides, when applicable;
- (10) the wind direction and velocity, when applicable; and
- (11) that the application was less than label rate, when applicable.

(b) Whenever the service involving the application of pesticides is performed for the purpose of controlling termites, powder-post beetles, wood borers, wood-rot fungus or any other wood destroying pest, the following information shall be included in addition to that required under subsection (a): (1) The conditions under which retreatments, if any are to be made;

(2) the approximate date or dates of inspections, for any to be made after the original application of the pesticide; and

(3) a diagram of the structure to be treated, showing the location of visible evidence of active and inactive infestations by any wood destroying pest or pests for which the treatment is proposed; where a partial or spot treatment is to be made, this diagram shall also show the area or areas of the structure which are to be treated.

(c) (1) The required statement of services or contract for services involving the application of pesticides may be incorporated into any business form used by the pesticide business licensee.

(2) The statement of services or contract shall be presented to the customer in paper format, unless the customer agrees to receive all or part of the statement of services or contract in electronic format.

(3) The pesticide business licensee shall present the statement of services or contract to the customer within 30 days of when the pest control services were provided and prior to the due date for payment of the services, if the services are not a prepaid agreement. Upon the customer's request, the statement of services or contract shall be presented to the customer no later than the close of business on the business day following the request.

(4) Upon request of the secretary or the secretary's designee, a duplicate of the statement of services or contract provided to the customer shall be made available within two business days to the secretary or the secretary's designee.

(5) Any pesticide business licensee using aerial methods of applying pesticides may present such information at any time prior to the time payment is accepted.

(6) The statement of services or contract may be signed using the legible printed names of the individuals who performed and, when applicable, supervised the performance of the pest control service or the application of pesticide.

(7) The pesticide business licensee shall retain a copy of each statement of services or contract in such licensee's files for a period of three years from the expiration date of any statement of services or contract.

(8) Each pesticide business licensee shall faithfully carry out the stipulations set forth in any statement of services or contract prepared by such licensee or any of its representatives.

(d) Each pesticide business licensee shall make available to the secretary upon request, a copy of any statement of services or contract, records of all pesticide applications during any specified period, records of all employees who performed any service involving, or in conjunction with, the application of pesticides and any other requested information pertinent to the administration of this act or any rule or regulation adopted hereunder by the secretary.

(e) The secretary shall require certified commercial applicators who are not employed by or otherwise acting for a business licensee to maintain records concerning applications of restricted use pesticides. The secretary shall specify by rules and regulations the information to be contained in such records, which shall be maintained for three years from the date of application of the pesticide concerned. Such records shall be open to inspection by the secretary or the secretary's designee during normal business hours, and copies shall be furnished to the secretary or the secretary's designee upon request.

History: L. 1976, ch. 1, § 18; L. 1977, ch. 3, § 11; L. 1989, ch. 6, § 15; L. 1995, ch. 37, § 1; L. 2009, ch. 128, § 23; L. 2018, ch. 20, § 2; July 1.

Attachment 2-1: PROVISIONS FOR RUP DEALER RECORDKEEPING.

K.A.R. 4-13-30. Dealer recordkeeping requirements. (a) Each pesticide dealer shall maintain records of all restricted-use pesticide products sold or otherwise conveyed. These records shall be made available during reasonable business hours to the secretary or the secretary's authorized representative for purposes of inspection and copying. Each record required by this regulation shall be kept for at least two years after the date of the sale or conveyance.

(b) The records specified in subsection (a) shall contain the following information:

(1) The name of each person to whom the restricted-use pesticide product has been sold or conveyed, as verified by the person's presentation of a federal or state government-issued identification card;

(2) the address of either the residence or principal place of business of each person to whom the restricted-use pesticide product has been sold or conveyed;

(3) the name and address of either the residence or principal place of business of the individual to whom the restricted-use pesticide product has been delivered or conveyed, if different from the purchaser;

(4) the certification number of the applicator's certificate;

(5) the name of the state issuing the certificate;

(6) the expiration date of the certificate;

(7) if the applicator is a certified commercial applicator of pesticides, then, if applicable, the categories and subcategories in which the applicator is certified;

(8) the registered name of the restricted-use pesticide product, the EPA registration number of the restricted-use pesticide product, and, if applicable, the "special local need" state registration number of the restricted-use pesticide product;

(9) the quantity of the restricted-use pesticide product sold or conveyed; and

(10) the date of the transaction.

(c) If the pesticide dealer makes a restricted-use pesticide product available to an uncertified person for use by a certified applicator, then the following records shall be kept in addition to those required in subsection (a):

(1) The name of the uncertified person to whom the restricted-use pesticide product has been made available, as verified by the uncertified person's presentation of a federal or state government-issued identification card;

(2) the address of either the residence or principal place of business of the uncertified person to whom the restricted-use pesticide product has been made available;

(3) the name of the certified applicator who will use the restricted-use pesticide product; and

(4) the address of either the residence or principal place of business of the certified applicator who will use the restricted-use pesticide product.

(d) Each pesticide dealer shall submit an annual report for each restricted-use pesticide product that the dealer has sold or otherwise conveyed. The report shall include the following:

(1) The registered name of the restricted-use pesticide product, the EPA registration number of the restricted-use pesticide product, and, if applicable, the "special local need" state registration number of the restricted-use pesticide product; and

(2) the quantity of the restricted-use pesticide product sold or otherwise conveyed. (Authorized by and implementing K.S.A. 2-2467a; effective, T-86-27, Aug. 19, 1985; effective May 1, 1986; amended May 1, 1987; amended Feb. 5, 2010.)

Attachment 3: COMMERCIAL APPLICATOR CERTIFICATION CATEGORIES

KDA intends to amend existing law to adopt the federal categories for commercial applicator certification. Specifically, that will require statutory and regulatory changes to add an aerial category; a predator control sodium cyanide category; and grain fumigation. KDA is currently unaware of any need for predator control with sodium fluoroacetate and soil fumigation categories. Additionally, some of the definitions will have to be modified to provide for consistency with the federal categories and standards.

K.S.A. 2-2444a. Categories of qualification for certification and licensing; subdivision by secretary.

(a) The categories of qualification for certification and licensing shall include:

- (1) Agricultural pest control;
- (2) forest pest control;
- (3) ornamental and turf pest control;
- (4) seed treatment;
- (5) aquatic pest control;
- (6) right-of-way pest control;
- (7) industrial, institutional, structural and health related pest control;
- (8) public health pest control;
- (9) regulatory pest control; and
- (10) demonstration and research pest control.

(b) The secretary shall have authority to subdivide any category of qualification for certification or licensing enumerated in subsection (a) of this section in order to account for the special needs or business practices of this state. The secretary may also adopt any additional categories he or she deems necessary for any reason. Any such changes in the categories enumerated in subsection (a) shall be adopted by rules and regulations of the secretary.

History: L. 1977, ch. 3, § 5; L. 2004, ch. 101, § 47; July 1.

K.A.R. 4-13-3. Categories and subcategories of qualification for the licensing of pesticide businesses and certification of commercial applicators.

(a) The categories and subcategories of qualification for licensing of pesticide businesses and certification of commercial applicators shall include the following:

(1) Category 1: agricultural pest control. This category shall include any commercial application of pesticide in the production of agricultural plants or animals.

(A) Subcategory 1A: agricultural plant pest control. This subcategory shall include any commercial application of pesticide on grasslands and noncrop agricultural lands, and in the production of agricultural crops, including tobacco, peanuts, cotton, feed grains, soybeans and forage, vegetables, small fruits, tree fruits, and nuts.

(B) Subcategory 1B: agricultural animal pest control. This subcategory shall include any commercial application of pesticide to places on, or in which, animals are confined and on animals, including beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock. This subcategory shall include any doctor of veterinary medicine who applies pesticides for hire, engages in the large-scale use of pesticides, or is publicly held out as a pesticide applicator.

(C) Subcategory 1C: wildlife damage control. This subcategory shall include any commercial application of pesticide for the management and control of wildlife in rangeland and agricultural areas.

Wildlife shall mean nondomesticated vertebrate species that hinder agricultural and rangeland production.

(D) Subcategory 1D: stump treatment. This subcategory shall be limited to the commercial application of pesticide for the treatment of cut stumps to control resprouting in pastures, rangeland, or lands held in conservation reserve. Nothing in this subcategory shall prohibit stump treatment by pesticide businesses and commercial applicators in other categories and subcategories that include pesticide application to cut stumps.

(2) Category 2: forest pest control. This category shall include any commercial application of pesticide in forests, forest nurseries, and forest seed-producing areas.

(3) Category 3: ornamental and turf pest control. This category shall include any commercial application of pesticide in the maintenance of ornamental trees, shrubs, flowers, and turf.

(A) Subcategory 3A: ornamental pest control. This subcategory shall include any commercial application of pesticide to control pests in the maintenance and production of ornamental trees, shrubs, and flowers. This subcategory shall not include those pests included in subcategory 3C.

(B) Subcategory 3B: turf pest control. This subcategory shall include any commercial application of pesticide to control pests in the maintenance and production of turf.

(C) Subcategory 3C: interior landscape pest control. This subcategory shall include any commercial application of pesticide to control pests in the production and maintenance of houseplants and other indoor ornamental plants kept or located within structures occupied by humans, including houses, apartments, offices, shopping malls, and other places of business and dwelling places.

(4) Category 4: seed treatment. This category shall include any commercial application of pesticide on seeds.

(5) Category 5: aquatic pest control. This category shall include any commercial application of pesticide to standing or running water. Applicators engaged in public health pest control and health-related pest control activities shall be excluded.

Subcategory 5S: sewer root control. This subcategory shall be limited to any commercial application of pesticide for the control of roots in sewer lines and septic systems.

(6) Category 6: right-of-way pest control. This category shall include any commercial application of pesticide to control vegetation in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, industrial sites, parking lots, or other similar areas.

(A) This category shall include the types of commercial pesticide application specified in subcategory 7C.

(B) This category shall not include those types of commercial pesticide application specified in paragraph (a)(9).

(7) Category 7: industrial, institutional, structural, and health-related pest control.

(A) This category shall include any commercial application of pesticide for the protection of stored, processed, or manufactured products. This category shall also include any commercial application of pesticide in, on, or around the following:

(i) Food handling establishments, human dwellings, institutions including schools and hospitals, and any other similar structures and the areas immediately adjacent to those structures; and

(ii) industrial establishments including warehouses, grain elevators, food processing plants, and any other related structures and adjacent areas.

(B) Subcategory 7A: wood-destroying pest control. This subcategory shall include any commercial application of pesticide in the control of termites, powder post beetles, wood borers, wood rot fungus, and any other wood-destroying pest.

(C) Subcategory 7B: stored products pest control. This subcategory shall include any commercial application of pesticide for the control of pests in stored grain and food products.

(D) Subcategory 7C: industrial weed control. This subcategory shall include any commercial application of pesticide for the control of pest weeds.

(E) Subcategory 7D: health-related pest control. This subcategory shall include any commercial application of pesticide in health programs for the management and control of terrestrial and aquatic pests having medical or public health significance.

(F) Subcategory 7E: structural pest control. This subcategory shall include any commercial application of pesticide in a structure for the control of any pest not covered in subcategories 7A and 7B.

(G) Subcategory 7F: wood preservation and wood products treatment. This subcategory shall include any commercial application of pesticide made to extend the life of wooden poles, posts, crossties, and other wood products to preserve or protect them from damage by insects, fungi, marine organisms, weather deterioration, or other wood-destroying agents.

(8) Category 8: public health pest control. This category shall apply to qualification for commercial certification of employees of government agencies, including state, federal, and other governmental agencies, who apply or supervise the application of a restricted-use pesticide for the management and control of terrestrial and aquatic pests having medical or public health significance.

(9) Category 9: regulatory pest control. This category shall apply to qualification for commercial certification of employees of government agencies, including state, federal, and other governmental agencies, who apply or supervise the application of a restricted-use pesticide in the control of federally regulated and state-regulated pests.

(A) Subcategory 9A: noxious weed control. This subcategory shall include qualification for commercial certification of employees of state, federal, and other governmental agencies who use or supervise the use of a restricted-use pesticide in the control of weed pests regulated under the Kansas noxious weed law.

(B) Subcategory 9B: regulated pest control. This subcategory shall include qualification for commercial certification of employees of state, federal, and other governmental agencies who use or supervise the use of a restricted-use pesticide in the control of federally regulated or state-regulated pests not covered in subcategory 9A.

(10)(A) Category 10: demonstration and research pest control. This category shall include the following:

(i) Those persons who demonstrate to the public the proper techniques for application and use of restricted-use pesticides or who supervise such a demonstration. These persons shall include extension specialists, county agents, commercial representatives who demonstrate pesticide products, and persons who demonstrate, in public programs, methods of pesticide use;

(ii) those persons who use or supervise the use of restricted-use pesticides in conducting field research that involves the use of pesticides. These persons shall include state, federal, and commercial employees and other persons who conduct field research regarding or utilizing restricted-use pesticides; and

(iii) qualified laboratory personnel using restricted-use pesticides while engaged in pesticide research in areas where environmental factors beyond the control of laboratory personnel, including

wind, rain, and similar factors, can affect the safe use of the pesticide or can cause the pesticide to have an adverse impact on the environment.

(B) The persons listed in paragraphs (a)(10)(A)(ii) and (iii) shall not be considered exempt from certification under the provisions of K.S.A. 2-2441a(d) and amendments thereto.

(b) Each pesticide business shall be licensed in all categories in which the pesticide business makes commercial pesticide applications and shall employ one or more persons who maintain commercial certification in each subcategory in which the pesticide business makes commercial pesticide applications.

(c) Each state, federal, and other governmental agency shall be registered in all categories and subcategories in which the agency makes commercial pesticide applications. (Authorized by K.S.A. 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 22444a and K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended Feb 29, 2008; amended Feb. 5, 2010.)

Attachment 4: PRIVATE APPLICATOR CERTIFICATION CATEGORIES

KDA intends to amend existing law to adopt the federal categories for private applicator certification. Specifically, statutory and regulatory changes will be needed because at the time this certification plan is being submitted, KDA's private applicator certification is not divided into categories. If implemented, KDA anticipates providing the same testing and training opportunities for private applicator certification as with commercial applicator certification.

Attachment 5: LIMITED USE CERTIFICATION CATEGORIES

At the time this certification plan is submitted, KDA does not have limited use certification categories. KDA does not intend to implement any limited use certification categories. If that should change, KDA will amend this attachment to address such limited certification category or categories.

Attachment 6: STANDARDS FOR CERTIFICATION OF COMMERCIAL APPLICATORS

KDA believes the current standards for commercial applicator certification meets or exceeds the requirements prescribed by EPA.

K.S.A. 2-2443a. Same; examination; reciprocity; fees; subjects included in examination. An applicant for a commercial applicator's certificate shall show upon written examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides in the categories or subcategories for which the applicant has applied. A commercial applicator who holds a current certificate to apply pesticides commercially in any other state or political subdivision of the United States may be exempted from examination for certification in this state upon approval of the secretary and payment of a \$75 fee per category, unless a fee not to exceed \$75 is established in rules and regulations adopted by the secretary. Applicants shall submit with each application a fee per examination taken, including each category, subcategory and general core examination. The examination fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$45 per examination, except that on and after July 1, 2023, such fee shall not exceed \$35 per examination. Applicants who fail to pass the examination may reapply and take another examination upon paying another examination fee, which fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$45 per examination, except that on and after July 1, 2023, such fee shall not exceed \$35 per examination. The general core examination shall include, but is not limited to, the following:

- (a) The proper use of the equipment.
- (b) The hazards that may be involved in applying the pesticides, including:
 - (1) The effect of drift of the pesticides on adjacent and nearby lands and other non-target organisms;
 - (2) the proper meteorological conditions for the application of pesticides and the precautions to be taken with such application;
 - (3) the effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;
 - (4) the effect of the application of pesticides to wildlife in the area, including aquatic life;
 - (5) the identity and classification of pesticides used and the effects of their application in particular circumstances; and
 - (6) the likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects and vegetation.
- (c) Calculating the concentration of pesticides to be used.
- (d) Identification of common pests to be controlled and damages caused by such pests.
- (e) Protective clothing and respiratory equipment for handling and application of pesticides.
- (f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.
- (g) Applicable state and federal pesticide laws and regulations.
- (h) Any other subject which the secretary deems necessary.

History: L. 1977, ch. 3, § 4; L. 1982, ch. 4, § 10; L. 2002, ch. 181, § 6; L. 2004, ch. 85, § 6; L. 2009, ch. 128, § 17; L. 2014, ch. 133, § 3; L. 2017, ch. 86, § 5; July 1.

K.S.A. 2-2446. Renewal of certification or registration. (a) A commercial applicator's certification may be renewed for a succeeding three-year period by paying the fees prescribed in K.S.A. 2-2441a, and amendments thereto, passing the examinations provided for in K.S.A. 2-2443a, and amendments thereto, and completing the renewal application form prescribed by the secretary.

(b) In lieu of such examinations, the secretary may accept attendance and satisfactory completion of a training course approved by the secretary. If certification is renewed by training, the renewal application form shall be accompanied by a recertification-by-training fee of \$50 per category unless a fee not to exceed \$50 is established in rules and regulations adopted by the secretary.

(c) A certified commercial applicator may recertify by training following the expiration of the certification period, if:

(1) All training requirements were completed during the certification period; and

(2) the renewal application form and all appropriate fees were received by the secretary on or before 30 days following expiration of the certification period.

(d) A private applicator's certification may be renewed for a succeeding five-year period by paying the fee prescribed in K.S.A. 2-2445a, and amendments thereto, passing the examination provided for in K.S.A. 2-2445a, and amendments thereto, and completing the renewal application form prescribed by the secretary. Such examination shall be offered by the secretary by mail. County extension agricultural meetings shall include pertinent pesticide information for private applicators.

(e) A pest control technician's registration may be renewed for a succeeding one-year period by paying the fees prescribed in K.S.A. 2-2440b, and amendments thereto, completing the renewal form prescribed by the secretary, and completing any requirements concerning retraining prescribed by rules and regulations.

History: L. 1976, ch. 1, § 9; L. 1981, ch. 10, § 2; L. 1987, ch. 12, § 4; L. 2009, ch. 128, § 19; July 1.

K.A.R. 4-13-12. Age Restriction for Certification. To be eligible for certification as a commercial applicator of restricted use pesticides, an individual shall be eighteen (18) years of age or older. (Authorized by K.S.A. 1977 Supp. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978.)

K.A.R. 4-13-13. Commercial applicator examinations. (a) Each general core examination for commercial applicator certification shall test the applicant's knowledge in the following subjects, in addition to testing the applicant's knowledge in those subjects specified in K.S.A. 2-2443a (a) through (h), and amendments thereto:

(1) The general format and terminology of pesticide labels and labeling, the instructions, warnings, symbols and other information appearing on pesticide labels, the classification designation on pesticide labels, and the necessity of using each pesticide in a manner that is consistent with the information and instructions on its label;

(2) safety factors, including pesticide toxicity; types and causes of pesticide accidents; precautionary measures that are necessary to guard against injury to the applicator and other individuals; symptoms of pesticide poisoning; first aid and other procedures to follow in case of a pesticide accident; proper identification, storage, transportation of, mixing, and handling of pesticides; prevention of and cleanup of pesticide spills; and disposal of pesticide containers;

(3) the potential for damage to the environment from use and misuse of pesticides as influenced by factors including types of terrain, soil, and other substrata and drainage patterns;

(4) pest development and biology relevant to pest identification and control;

(5) the types of pesticides and pesticide formulations used, compatibility, synergism, persistence and animal and plant toxicity of pesticides, practices that cause pesticide resistance, and dilution procedures;

(6) the types of equipment used and the limitations of each and equipment use, maintenance, and calibration;

(7) proper application techniques for various pesticides and formulations of pesticide in given situations, relationship of placement of pesticides to proper use, unnecessary pesticide use and pesticide misuse, and prevention of pesticide loss into the environment through drift and other means; and

(8) requirements that must be met by a certified applicator in supervising noncertified applicators of restricted pesticides, including practical knowledge of federal and state supervisory requirements, requirements found on labeling, requirements regarding verifiable instruction of the noncertified applicator and availability of certified applicator during application, and any added restrictions that may be imposed for specific pesticides through labeling, including the required physical presence of the supervising applicator during the application.

(b) As specified in this subsection, each category or subcategory examination for commercial applicator certification shall test the applicant's practical knowledge of the category or subcategory of certification in which the applicant wishes to be certified, in addition to testing the applicant's practical knowledge in those subjects specified in K.S.A. 2-2443a and amendments thereto.

(1) Agricultural pest control.

(A) Each examination for agricultural plant pest control applicators shall test the applicant's practical knowledge of the crops grown in Kansas and the specific pests commonly associated with these crops, potential soil and water damage, preharvest intervals, reentry intervals, phytotoxicity, environmental contamination, nontarget injury, and potential adverse effects on the community that are related to the use of restricted pesticides in agricultural areas.

(B) Each examination for agricultural animal pest control applicators shall test the applicant's practical knowledge of Kansas agricultural animals and their pests, specific pesticide toxicity levels, residue potential and relative hazards associated with various pesticide formulations, application techniques, ages of animals, and the stress and extent of treatment.

(C) Each examination for wildlife damage control applicators shall test the applicant's practical knowledge of vertebrate pest species and damage associated with each species, methods useful in damage prevention, products used in damage control, the potential for direct poisoning of nontarget species, the potential for secondary poisonings, effects upon threatened and endangered species, specific pesticide toxicity and residue levels, and methods of application necessary to minimize hazards to humans, the environment, pets, and domestic animals.

(D) Each examination for stump treatment applicators shall test the applicant's practical knowledge of stump control methods, limited area applications, and the potential adverse effects of pesticides.

(2) Forest pest control. Each examination for forest pest control applicators shall test the applicant's practical knowledge of types of forests, forest nurseries and forest seed production in Kansas and of the pests associated with them, pest cycles and population dynamics as they influence control

programming, biotic agents and their relative vulnerability to pesticides, and proper use of specialized equipment as it relates to adjacent land use.

(3) Ornamental and turf pest control.

(A) Each examination for ornamental pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production and maintenance of ornamental trees, shrubs and flowers in Kansas, potential phytotoxicity problems related to the wide variety of plants in treated areas, pesticide persistence beyond the intended period of control, and application methods that minimize hazards to humans, pets, and domestic animals.

(B) Each examination for turf pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production and maintenance of turf in Kansas, potential phytotoxicity problems related to the wide variety of plants in treated areas, pesticide persistence beyond the intended period of control, and application methods that minimize hazards to humans, pets, and domestic animals.

(C) Each examination for interior landscape pest control applicators shall test the applicant's practical knowledge of pest and pesticide problems associated with the production and maintenance of houseplants and other ornamental plants kept or located within structures occupied by humans, including houses, apartments, offices, shopping malls, other places of business, and other dwelling places. The examination shall also test the applicant's practical knowledge of potential phytotoxicity problems related to treatment of plants in enclosed areas, pesticide persistence beyond the intended period of control, and application methods that minimize hazards to humans, pets, and domestic animals.

(4) Seed treatment. Each examination for seed treatment applicators shall test the applicant's practical knowledge of the types of seeds that require protection against pests, factors that could affect germination, including seed coloration, carriers and surface active agents, hazards associated with handling, storing, mixing and misuse of treated seeds, and the proper disposal of unused treated seeds.

(5) Aquatic pest control.

(A) Each examination for aquatic pest control applicators shall test the applicant's practical knowledge of secondary effects caused by improper application rates, incorrect formulations, and faulty aquatic pesticide applications; knowledge of various water use situations and the potential of downstream effects; knowledge of potential effects on plants, fish, birds, beneficial insects, and other organisms in the aquatic environment; and knowledge of the principles of limited area application.

(B) Each examination for sewer root control shall test the applicant's practical knowledge of sewer control methods, limited area applications, and potential adverse effects of pesticides.

(6) Right-of-way pest control. Each examination for right-of-way pest control applicators shall test the applicant's practical knowledge of the wide variety of environments crossed by rights-of-way, problems of runoff, drift and excessive foliage destruction, the nature of herbicides, the need for containment of herbicides within the right-of-way area, and the impact of the applicator's activities on adjacent areas and communities.

(7) Industrial, institutional, structural, and health related pest control.

(A) Each examination for wood-destroying pest control applicators shall test the applicant's practical knowledge of wood-destroying pests and their life cycles, pesticide

formulations appropriate for the control of these pests, methods of application that avoid exposure of people and pets, and specific factors that can lead to hazardous conditions, including continuous exposure to the pesticide.

(B) Each examination for stored products pest control shall test the applicant's practical knowledge of pests found in stored grain and food processing areas, their life cycles, pesticide formulations appropriate for their control, methods of application that avoid contamination of food products and exposure of people, and specific factors that can lead to a hazardous condition, including continuous exposure.

(C) Each examination for industrial weed control applicators shall test the applicant's practical knowledge of weed pests found in industrial areas, pesticide formulations appropriate for the control of these pests, methods of application that avoid contamination of habitat and exposure of people and pets, and environmental conditions particularly related to this activity.

(D) Each examination for health-related pest control applicators shall test the applicant's practical knowledge of vector-disease transmission as it relates to and influences application programs, pests that adversely affect public health and their life cycles and habitats, and the variety of environments in which these pests are encountered.

(E) Each examination for structural pest control applicators shall test the applicant's practical knowledge of the wide variety of pests found in buildings, including their life cycles; types of pesticide formulations appropriate for their control and methods of application that avoid contamination of food, damage to and contamination of habitat, and exposure of people and pets; specific factors that can lead to a hazardous condition, including continuous exposure in the various situations encountered in this category; and environmental conditions particularly related to this activity.

(F) Each examination for wood preservation and wood-products treatment applicators shall test the applicant's practical knowledge of pest problems and pests associated with wood degradation, including their life cycles, types of pesticide formulations appropriate for their control, methods of application, application hazards and safety, and the proper means of container storage and container and waste disposal. The examination shall also test the applicant's practical knowledge of procedures to contain spills and to avoid contamination and exposure of the environment, including people, domestic animals, and wildlife.

(8) Public health pest control. Each examination for public health pest control applicators shall test the applicant's practical knowledge of vector-disease transmission as it relates to and influences application programs, pests that adversely affect public health and their life cycles and habitats, the variety of environments in which these pests are encountered, and the importance of nonchemical control methods including sanitation, waste disposal, and drainage.

(9) Regulatory pest control.

(A) Each examination for noxious weed control applicators shall test the applicant's practical knowledge of pest weeds as regulated by the Kansas noxious weed law, the potential impact on the environment of restricted use pesticides used in suppression and eradication programs, and factors influencing the introduction, spread, and population dynamics of those pest weeds.

(B) Each examination for regulated pest control applicators shall test the applicant's practical knowledge of federally regulated and state-regulated pests, applicable laws relating to quarantine and other regulations regarding pests, the potential impact on the environment of restricted use pesticides

used in suppression and eradication programs, and factors influencing the introduction, spread, and population dynamics of relevant pests.

(10) Demonstration and research pest control. Each examination for demonstration and research pest control applicators shall test the applicant's practical knowledge of the many different pest problems encountered in the course of activities associated with demonstration, field research and method improvement work, pesticide-organism interactions, and the importance of integrating pesticide use with control methods. Each applicator shall meet the examination requirements for application in the other categories that are applicable to the applicator's particular activity.

(c) A grade of at least 75% correct answers shall be required to pass each commercial applicator examination. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2006 Supp. 2-2443a and K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended May 1, 1985; amended, T-87-39, Nov. 19, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 1, 1989; amended Feb 29, 2008.)

Attachment 7: STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS

With respect to standards for certification of private applicators, KDA anticipates continuing the ongoing discussion with representatives of EPA to address KDA's concerns with the authority and requirements of 7 U.S.C.A. § 136i and the revisions to 40 C.F.R. 171.

KDA intends to implement standards for certification of private applicators that are similar to the standards for certification of commercial applicators. The standards may include provisions for training as an alternative to an examination . As a result of continued discussion with EPA, KDA may seek to clarify these standards and incorporate additional alternatives for initial and recertification standards for private applicators.

Attachment 8: RECERTIFICATION STANDARDS.

Currently, commercial applicator certification may be renewed by taking a closed book, proctored examination or by acquiring enough recertification training hours. Private applicator certification may be renewed by passing an open book, unproctored examination.

K.S.A. 2-2446. Renewal of certification or registration. (a) A commercial applicator's certification may be renewed for a succeeding three-year period by paying the fees prescribed in K.S.A. 2-2441a, and amendments thereto, passing the examinations provided for in K.S.A. 2-2443a, and amendments thereto, and completing the renewal application form prescribed by the secretary.

(b) In lieu of such examinations, the secretary may accept attendance and satisfactory completion of a training course approved by the secretary. If certification is renewed by training, the renewal application form shall be accompanied by a recertification-by-training fee of \$50 per category unless a fee not to exceed \$50 is established in rules and regulations adopted by the secretary.

(c) A certified commercial applicator may recertify by training following the expiration of the certification period, if:

- (1) All training requirements were completed during the certification period; and
- (2) the renewal application form and all appropriate fees were received by the secretary on or before 30 days following expiration of the certification period.

(d) A private applicator's certification may be renewed for a succeeding five-year period by paying the fee prescribed in K.S.A. 2-2445a, and amendments thereto, passing the examination provided for in K.S.A. 2-2445a, and amendments thereto, and completing the renewal application form prescribed by the secretary. Such examination shall be offered by the secretary by mail. County extension agricultural meetings shall include pertinent pesticide information for private applicators.

(e) A pest control technician's registration may be renewed for a succeeding one-year period by paying the fees prescribed in K.S.A. 2-2440b, and amendments thereto, completing the renewal form prescribed by the secretary, and completing any requirements concerning retraining prescribed by rules and regulations.

History: L. 1976, ch. 1, § 9; L. 1981, ch. 10, § 2; L. 1987, ch. 12, § 4; L. 2009, ch. 128, § 19; July 1.

Attachment 9: STANDARDS FOR THE DIRECT SUPERVISION OF NONCERTIFIED APPLICATORS.

KDA intends to amend the law to limit restricted use pesticides to be applied only by applicators certified in the appropriate categories.

K.A.R. 4-13-16. Supervision of uncertified applicators. (a) An uncertified commercial applicator of any pesticide and an uncertified private applicator of restricted-use pesticides shall be considered to be under the supervision of a certified applicator if the certified applicator has provided the uncertified applicator with instructions in the handling and application of the pesticide being used.

(b) The certified applicator shall be available to the uncertified applicator by telephone, two-way radio, or other comparable means of communication when the pesticide is being applied.

(c) The certified applicator shall be physically present if that person's presence is required by the pesticide label.

(d) The certified applicator shall verify that the requirements of this regulation were met when requested to do so by the secretary or the secretary's authorized representative.

(e) An uncertified applicator of pesticides, including registered pest control technicians, shall be considered to be under the supervision of a certified commercial applicator only if both individuals are stationed at and work from the same business address. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2008 Supp. 2-2441a, as amended by L. 2009, Ch. 128, §16; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended Feb. 5, 2010.)

Attachment 10: CREDENTIALS.

Certificates and pocket cards are issued to each certified person after such person meets the certification requirements as specified in the Kansas Pesticide Law, K.S.A. 2-2438a *et seq.*, and rules and regulations adopted thereunder. Additionally, KDA is exploring the feasibility of issuing permanent certification cards.

The bottom portion of this document is your OFFICIAL AUTHORIZATION from the Kansas Department of Agriculture. The middle portion is your POCKET CARD.

NAME
1320 RESEARCH PARK DR
MANHATTAN, KS 66502

POCKET CARD	Detailed Information
Kansas Department of Agriculture certifies	Category Exp Date
NAME	1A 12/31/2022
and hereby grants Commercial Pesticide Applicator	
Certificate Number: #####	
Expiration Date:	Mike Beam Secretary of Agriculture
12/31/2022	
See detailed information	
KANSAS DEPARTMENT OF AGRICULTURE 1320 Research Park Dr, Manhattan, KS 66502 (785)564-6700 agriculture.ks.gov	

K.A.R. 4-13-15 requires that a certified applicator shall produce a certificate or pocket card when requested to do so by any customer, law enforcement official, the Secretary, or any authorized representative of the Secretary.

Commercial Pesticide Applicator Certification

Kansas Department of Agriculture, Manhattan, Kansas Certifies

NAME

Commercial Pesticide Applicator Certificate Number: 277029

Has met the requirements for Commercial Pesticide Applicator Certification under the Kansas Pesticide Law and is hereby granted this certificate constituting authorization to apply, and supervise the application of pesticides in the categories indicated hereon.

Category	Exp Date
1A	12/31/2022


Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502 (785)564-6700 <http://agriculture.ks.gov>




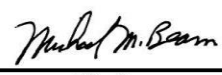
Mike Beam
Secretary of Agriculture

The bottom portion of this document is your OFFICIAL AUTHORIZATION from the Kansas Department of Agriculture. The middle portion is your POCKET CARD.

Name
1320 Research Park Drive
Manhattan, KS 66502

<p>POCKET CARD</p> <p>Kansas Department of Agriculture certifies</p> <p>NAME</p> <p>and hereby grants</p> <p>Private Pesticide Applicator</p> <p>Certificate Number: 00000</p> <p>Issue and Expiration Date: 7/24/2022</p> <p><small>KANSAS DEPARTMENT OF AGRICULTURE 1320 Research Park Dr, Manhattan, KS 6502 (785)564-6700 agriculture.ks.gov</small></p>	<p>Fold</p>  <p>Signature Not valid unless signed</p> <p><i>Mike Beam</i> Mike Beam Interim Secretary of Agriculture</p>
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K.A.R. 4-13-15 requires that a certified applicator shall produce a certificate or pocket card when requested to do so by any customer, law enforcement official, the Secretary, or any authorized representative of the Secretary.

<h2>Private Pesticide Applicator Certification</h2>	
<i>Kansas Department of Agriculture, Manhattan, Kansas Certifies</i>	
<p>Expires: 09/09/2022</p>	<div style="display: flex; align-items: center; justify-content: center;"><div style="margin-left: 20px;"><p>Private Pesticide Applicator Certificate Number: 00000</p></div></div> <p>NAME</p> <p><i>Has met the requirements for Private Pesticide Applicator Certification under the Kansas Pesticide Law and is hereby granted this certificate constituting authorization to apply, and supervise the application of restricted use pesticides.</i></p> <div style="text-align: right;"> Mike Beam Interim Secretary of Agriculture</div>
<small>Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502 (785)564-6700 http://agriculture.ks.gov</small>	

Attachment 11: RECIPROCITY.

K.S.A. 2-2443a. Same; examination; reciprocity; fees; subjects included in examination. An applicant for a commercial applicator's certificate shall show upon written examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides in the categories or subcategories for which the applicant has applied. A commercial applicator who holds a current certificate to apply pesticides commercially in any other state or political subdivision of the United States may be exempted from examination for certification in this state upon approval of the secretary and payment of a \$75 fee per category, unless a fee not to exceed \$75 is established in rules and regulations adopted by the secretary. Applicants shall submit with each application a fee per examination taken, including each category, subcategory and general core examination. The examination fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$45 per examination, except that on and after July 1, 2023, such fee shall not exceed \$35 per examination. Applicants who fail to pass the examination may reapply and take another examination upon paying another examination fee, which fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$45 per examination, except that on and after July 1, 2023, such fee shall not exceed \$35 per examination. The general core examination shall include, but is not limited to, the following:

- (a) The proper use of the equipment.
- (b) The hazards that may be involved in applying the pesticides, including:
 - (1) The effect of drift of the pesticides on adjacent and nearby lands and other non-target organisms;
 - (2) the proper meteorological conditions for the application of pesticides and the precautions to be taken with such application;
 - (3) the effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;
 - (4) the effect of the application of pesticides to wildlife in the area, including aquatic life;
 - (5) the identity and classification of pesticides used and the effects of their application in particular circumstances; and
 - (6) the likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects and vegetation.
- (c) Calculating the concentration of pesticides to be used.
- (d) Identification of common pests to be controlled and damages caused by such pests.
- (e) Protective clothing and respiratory equipment for handling and application of pesticides.
- (f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.
- (g) Applicable state and federal pesticide laws and regulations.
- (h) Any other subject which the secretary deems necessary.

History: L. 1977, ch. 3, § 4; L. 1982, ch. 4, § 10; L. 2002, ch. 181, § 6; L. 2004, ch. 85, § 6; L. 2009, ch. 128, § 17; L. 2014, ch. 133, § 3; L. 2017, ch. 86, § 5; July 1.

Attachment 12: REPORTS TO EPA.

KDA agrees to submit reports agreed to and specified in the current pesticide performance partnership grant with EPA. KDA anticipates any information collection and/or report submission outside the scope of the current pesticide grant will be separately negotiated.

Attachment 13. IMPLEMENTATION TIMEFRAME.

KDA intends to implement this certification plan in a timely manner. As previously discussed, many of the pesticide applicator certification requirements will necessitate revisions to Kansas statutes and KDA's administrative regulations. KDA anticipates some of the requirements will be readily accepted and implemented in a timely manner; however, some of the requirements may face opposition and be subject to a lengthy implementation process. Furthermore, KDA anticipates working with stakeholders since outreach and input from stakeholders is a key component to successful implementation of statutes and regulations.

KDA intends to prioritize implementation of the federal categories for applicator certification and recertification standards.

KDA anticipates continuing discussions with appropriate representatives of EPA to resolve KDA's concerns with the authority and requirements of 7 U.S.C.A. § 136i and the revisions to 40 C.F.R. 171 as they relate to the standards for certification of private applicators.

As a result, KDA anticipates working with EPA Region 7 to modify this certification plan prior to EPA's March 4, 2022 approval deadline. KDA intends to implement this certification plan after EPA's approval and believes it may take three to five years for some of the necessary revisions to be implemented.